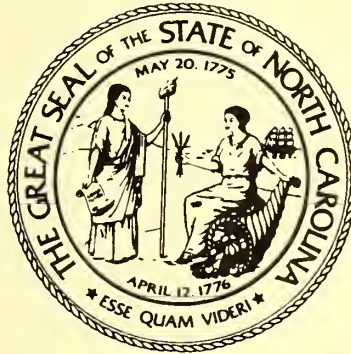


THE JUVENILE LAW STUDY COMMISSION



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1989 GENERAL ASSEMBLY  
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## JUVENILE LAW STUDY COMMISSION

P. O. Box 925  
RALEIGH, NORTH CAROLINA 27602

JUDGE SHERRY F. ALLOWAY, CHAIR

January 11, 1989

TO THE GOVERNOR AND THE MEMBERS OF THE 1989 GENERAL ASSEMBLY:

This is the Juvenile Law Study Commission report to the Governor and the 1989 General Assembly. This report detailing the work of the Commission from January 1987 through January 1989 is made pursuant to G.S. 7A-741 and is transmitted by the Juvenile Law Study Commission for your consideration.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sherry F. Alloway".

Judge Sherry F. Alloway, Chair

Juvenile Law Study Commission

BACKGROUND OF THE 1979 JUVENILE CODE REVISION<sup>1</sup>

Juvenile justice in the United States is usually described as progressing through several major reforms. The opening of the New York House of Refuge in 1825 constituted the first separate juvenile institution for child offenders and neglected children. Massachusetts provided separate court hearings for juvenile offenders as early as 1870 in Boston and separate juvenile records in 1877.

New York enacted legislation to prohibit incarceration of children in prisons in 1877. In 1898 Rhode Island provided separate pre-hearing detention of children in facilities other than jails. Then, in 1889, Illinois embodied in legislation the various concepts of reform and proposed what became a model for the development of a juvenile court.

The evolution of a separate court for juveniles offering informal procedures was seen as a special effort to protect juvenile offenders from the stigma of a criminal conviction and to provide for treatment or rehabilitation based on an evolution of the needs of the child.

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<sup>1</sup>This information is taken from the 1979 Report of the Juvenile Code Revision Committee, on file in the Legislative Library, pp. 6-10.

After 1899, both delinquent and predelinquent children came within the jurisdiction of the court. Under the doctrine of parens patriae, the State was allowed to intervene as a substitute parent in certain situations.

The judge conducted an informal, non-adversarial hearing. The judge exercised full discretion to determine an outcome that was in the best interests of the child and a disposition to rehabilitate the child by changing the pattern of the child's behavior that had been found unacceptable. Notions of procedural due process were abandoned in the spirit of social reform.

The North Carolina Constitution of 1868 provided a framework for a juvenile court in North Carolina. It acknowledged a "Christian and civilized" state's duty to provide for the "poor, the unfortunate and the orphan...." It provided for the establishment of houses of refuge, houses of correction, and orphanages. Children were confined in the state penitentiary from its establishment until 1869. Mason P. Thomas, Jr., in Juvenile Corrections and Juvenile Jurisdiction (1972), describes the use of executive clemency by North Carolina governors to remove children from prison:

The first available list of pardons shows that Governor Holden pardoned a ten-year-old in 1869 who had been sentenced to prison for a year for assault. Another case involved a youth who was sentenced to three years for stealing a goose valued at ten cents. These child prisoners varied in age from 8 to 20. The legislative documents containing lists of pardons by various governors show that more than 150 youthful prisoners were pardoned between 1869 and 1909 in order to remove them from adult prisons, particularly Central Prison in Raleigh.



Support for a separate juvenile correctional system gained momentum until 1907 when Stonewall Jackson Manual Training and Industrial School was established. The school was opened in 1909 to accept children under sixteen years of age who were convicted of violating a criminal offense.

The first legislation providing special treatment for youthful offenders in the courts came in 1915. The Probation Courts Act (Public Laws 1915, Chapter 222), which applied to youthful offenders who were eighteen years old or younger, introduced new concepts into North Carolina law including juvenile delinquency, use of probation, closed hearing for juveniles, and separate juvenile records. These concepts were subsequently incorporated into the juvenile court legislation of 1919.

The National Child Labor Committee had studied conditions in the state affecting children and the report that followed was published in 1918, entitled Child Welfare in North Carolina. The 1919 General Assembly enacted the proposals as recommended except that the legislation included children under the age of sixteen rather than eighteen as suggested in the report.

The clerk of superior court was given jurisdiction over children less than sixteen years old who came within these categories: delinquent, truant, unruly, wayward, misdirected, disobedient to parents or beyond their control or who is in danger of becoming so, neglected, dependent upon public support, destitute, homeless, abandoned, or whose custody is subject to controversy. The categories were not defined by the statute.

Once jurisdiction attached, it continued until the child was twenty-one years of age. The clerk, as juvenile judge, was given discretionary authority to exclude the general public from juvenile hearings. Separate juvenile records that were to be withheld from public inspection were to be maintained. A juvenile petition initiated a juvenile case and notice was by summons. See former N.C.G.S. § 110-29 (1965 Replacement). Children were to be held separate from adult offenders in local jails. See former N.C.G.S. § 110-30 (1966 Replacement). The county welfare department was to provide juvenile probation services, and appropriate conditions of juvenile probation were specified. See former N.C.G.S. §§ 110-31 through 110-33 (1966 Replacement). A statute applicable to adults who contributed to the delinquency and neglect of children was included. See former N.C.G.S. § 110-30 (1969 Replacement). Appeals were to Superior Court. See former N.C.G.S. § 110-40 (1966 Replacement). In upholding the constitutionality of the state's juvenile court law, the North Carolina Supreme Court relied on the doctrine of parens patriae (State v. Burnett, 179 N.C. 735 (1920)).

The year 1967 marked a new turning point in juvenile justice. Both the President's Task Force Report on Juvenile Delinquency and Youth and Crime and In re Gault, 387 U.S. 1 (1967), challenged the notion that the best intentioned judge, given unlimited discretion, could achieve the goals of juvenile courts. In describing the juvenile justice system, the report

said, "It has not succeeded significantly in rehabilitating of juvenile criminality, or in bringing justice and compassion to the child offender."

The Gault case began to define the procedural right of juveniles. Earlier in Kent v. United States, 383 U.S. 541 (1966), the United States Supreme Court held that the juvenile was afforded "neither the protections afforded to adults nor the solicitors and regenerative treatment postulated for children."

The line of cases after Gault perpetuated the dualistic nature of the Court's decision. Juveniles were entitled to some procedural protections and not others. Although they could be deprived of their liberty as a result of juvenile court intervention, the basis for intervention was treatment and rehabilitation.

The Juvenile Code Revision Committee was established by the General Assembly as an adjunct Committee of the Governor's Crime Commission, authorized to examine legislation and programs of other states, the Juvenile Justice Standards of the Institute of Judicial Administration and the American Bar Association, and the recommendations of other study commissions and to present to the 1979 General Assembly a comprehensive report outlining a coordinated working approach to North Carolina's juvenile justice system, including a draft revision of juvenile law that would recodify the statutes dealing with juvenile law into one, unified code.

The Committee made its report to the 1979 General Assembly. Its proposed Juvenile Code Revision became the substance of

N.C.G.S. §§ 7A-516 through -744. The Committee's major substantive concerns involved status offenders, the school's role in delinquency prevention, child abuse and neglect, coordination of juvenile justice services at the State and local level, intake services, immediate custody and detention, corrections, jury trials, law enforcement, and certification and training of judges. Its major recommendations follow:

- (1) That status offenders (i.e. truants, runaways, undisciplined) be diverted at intake to programs addressing their needs;
- (2) That, when jurisdiction of the court is exercised over the status offender, confinement in secure custody be for no longer than twenty-four hours (now, seventy-two for runaways), and that commitment to a training school be prohibited;
- (3) That sanctions against uncooperative parents be strengthened;
- (4) That the age limit for jurisdiction over undisciplined juveniles be lowered to include only juveniles under sixteen years of age;
- (5) That parents be held more accountable for their child's school attendance;
- (6) That all complaints alleging abuse, neglect, or dependency be referred to the Director of the county Department of Social Services for preliminary screening by that agency;

- (7) That a law enforcement officer or protective services worker be empowered to take a juvenile into temporary custody without a court order if there are reasonable grounds to believe that a juvenile is abused, neglected, or dependent and that he would be injured or could not be taken into custody if it were first necessary to obtain a court order;
- (8) That the juvenile alleged to have committed certain serious felony offenses be automatically referred to court;
- (9) That the intake counselor perform no adversarial functions and that any information gathered by the intake counselor be privileged until after adjudication;
- (10) That intake services be available seven days a week and twenty-four hours a day;
- (11) That the chief district court judge be empowered to delegate his authority to issue secure and nonsecure custody orders to another district court judge, or to intake counselors;
- (12) That, when this delegation has occurred, and the delegee has ordered placement in secure or nonsecure custody, a hearing to determine the need for continued custody be held on the day of the next regularly scheduled session of district court in the district, but in no case later than five days;

- (13) That no juvenile be detained in a holdover facility of a local jail after a date certain (finally set at July 1, 1984);
- (14) That training schools and facilities be reexamined and restructured better to use existing resources and train juveniles in trouble;
- (15) That a juvenile alleged to be delinquent be granted critical due process guarantees: the right to written notice of the facts alleged in the petition, the right to counsel, the right to confront and cross-examine witnesses, the privilege against self-incrimination, the right of discovery, and most other rights afforded adult offenders; (the legislature decided against the Committee's recommendation of right of trial by jury and also against the adult's right to bail and right of self-representation);
- (16) That the Administrative Office of the Courts develop a plan for certification of judges qualified to hear juvenile cases and for annual training for juvenile judges.

For a detailed, section by section analysis of the 1979 Juvenile Code passed by the legislature, see North Carolina Legislation 1979: A Summary of Legislation in the 1979 General Assembly of Interest to North Carolina Public Officials, Institute of Government, pp. 121 - 136.



## BACKGROUND OF THE JUVENILE LAW STUDY COMMISSION

The 1979 revision of juvenile law answered many questions and solved many problems. But, as the proposed revision worked its way through the legislature, two things became obvious. First, the revision did not solve all major problems, such as the vexed problem of how best to treat chronic status offenders. Second, because both juvenile law and juvenile services must continue to evolve, the 1979 revision could not be considered final. The 1980 General Assembly decided to establish the Juvenile Law Study Commission "to make continuing studies of the law, both statutory and judicial, as it pertains to juveniles of agency services available to juveniles and their families, and of any other matters the Commission identifies as being of importance to State consideration of juveniles." (Chapter 83, 1979 Session Laws, Second Session, 1980; N.C.G.S. §§ 7A-740 through 7A-744) (Appendix A contains the current statutes that authorize and regulate the Commission.)

The Commission was initially chaired by Representative James Morgan of High Point, who had been floor leader for the code revision bill in the House of Representatives. Representative Morgan served as chair until 1984. Representative Anne Barnes of Chapel Hill was named to succeed him. She continued as chair through January 1987. Judge Sherry Alloway of Guilford County was named to succeed Representative Barnes. Judge Alloway has continued as chair until this date. (Appendix B contains the Commission membership, past and present.)

## THE JUVENILE LAW STUDY COMMISSION: 1987-1988

The Commission met during the interims between legislative sessions on a average of once every other month. During the legislative sessions, it met more often, when bills were introduced that affected juvenile law and services. The Commission is required by law to review all such bills. (Appendix D contains the agendas of the Commission meetings chaired by Judge Alloway and Appendix E contains the minutes of these meetings.) The Commission initiated or rewrote legislation as a result of its continuing, extensive study of juvenile law and services. (Appendix C contains the bills initiated or rewritten by the Commission.) When the Commission studied legislation before it for revision, it conveyed the results of its study to the standing legislative committee that was formally considering it. (Appendix F contains Commission correspondence on issues and proposals it reviewed.)

The Commission's interim studies ranged over a spectrum of juvenile law, programs, and services. Several studies focused on a statewide juvenile transportation program and a look at the guardian ad litem program. The Commission received testimony from juvenile services agencies, support groups, and interested individuals. These studies have resulted in legislative proposals that were initiated by the Commission or that were rewritten to take Commission input and expertise into consideration (See Appendix C) as well as Commission endorsements or agency legislative proposals (See Appendix F).

The following pages record Commission action on legislative proposals it reviewed and that it initiated or rewrote.



## 1987-1988 LEGISLATION REVIEWED BY THE JUVENILE LAW STUDY COMMISSION

| <u>Bill<br/>Number</u> |  |           |                                   |
|------------------------|--|-----------|-----------------------------------|
| HB 29                  | Raise the Compulsory School Age            | Opposed   | HF: Postponed<br>Indef. 4-29-87   |
| HB 175                 | Caretaker Definition                       | Endorsed  | Ratified<br>Ch. 162 5-8-87        |
| HB 279                 | Prohib. minors Appearing<br>Topless        | No Action | S: Ref. to Com.<br>on J-1 5-14-87 |
| HB 351                 | Juv. Information Sharing                   | Endorsed  | Ratified<br>Ch. 297 6-8-87        |
| HB 352                 | Juv. Records for Research                  | Enorsed   | SF: Postponed<br>Indef. 6-17-87   |
| HB 397                 | Defendant pay/Treatment of<br>Child        | Opposed   | Ratified<br>Ch. 598 7-10-87       |
| HB 541                 | No Death penalty for Youth                 | No Action | Ratified<br>Ch. 693 7-29-87       |
| HB 551                 | Minors Admission Law                       | Endorsed  | Ratified<br>Ch. 370 6-15-87       |
| HB 558                 | Admission and Commitment<br>Transp.        | Endorsed  | Ratified<br>Ch. 268 6-2-87        |
| HB 636                 | Adoption/Termination of<br>Parental Rights | Endorsed  | Ratified<br>Ch. 371 6-15-87       |
| HB 637                 | Abused Juvenile Change                     | No Action | Ratified<br>Ch. 695 7-29-87       |
| HB 638                 | Protective Services                        | No Action | Ratified<br>Ch. 409 6-18-87       |
| HB 639                 | Custody Review Waivers                     | No Action | Ratified<br>Ch. 810 8-13-87       |
| HB 673                 | Grand Jury/Child Abuse                     | No Action | HF: Postponed<br>Indef. 5-12-87   |
| HB 787                 | DYS Teacher's Training                     | No Action | S: Re-Ref. Com.<br>on J-3 6-23-87 |
| HB 826                 | Clarify Domestic Violence                  | Endorsed  | S: Ref. to Com.<br>on J-3 5-15-87 |

|         |   |           |                                       |
|---------|---|-----------|---------------------------------------|
| HB 837  | Home Instruction/Compulsory Educ.         | No Action | S: Ref. to Com. on Educ. 8-11-87      |
| HB 838  | Privacy/Child Witness                     | No Action | S: Ref. to Com. on J-1 6-3-87         |
| HB 1023 | Psychologist Report Child Abuse           | Endorsed  | Ratified Ch. 323 6-8-87               |
| HB 1056 | Raise Compulsory Educ. Age                | Opposed   | H: Re-Ref. to Com. on Approp. E       |
| HB 1068 | Consent for Minor's Abortion              | Opposed   | S: Ref. to Com. on J-1 5-28-87        |
| HB 1113 | Abuse Victim's Indentity Protected        | No Action | H: Ref. to Com. on J-4 5-1-87         |
| HB 1220 | Church Schools/Corporal Punishment        | No Action | HF: Postponed Indef. 6-23-87          |
| HB 1221 | Parental Responsibility Unruly Students   | No Action | Incorporated Ch. 873 8-14-87          |
| HB 1249 | Undisciplined Age Raised                  | Opposed   | H: Ref. to Com. on J-4 5-5-87         |
| SB 37   | Expedite Trials with Child Witness        | Endorsed  | Ratified Ch. 137 5-5-87               |
| SB 38   | Child Witness Hearings Expedited          | Endorsed  | HF: Reptd. Unfav. 4-21-87             |
| SB 81   | Dropouts Ineligible for Driver's Licenses | Opposed   | SF: Rept. Unfav. 5-15-87              |
| SB 135  | Grand Jury/Children Exploited             | No Action | S: Re-Ref. to Com. on J-4 5-26-87     |
| SB 154  | Report Child Abuse to CC and PS           | Opposed   | S: Ref. to Com on Child & Youthe      |
| SB 155  | Mental Health Resolution                  | Endorsed  | S: Re-Ref. to Com. on Approp. 4-22-87 |
| SB 184  | Drop Out Referral System                  | No Action | Ratified Ch. 340 6-12-87              |
| SB 188  | No Pass/No Drive                          | Opposed   | S: Re-Ref. to Com. on Approp. 5-26-87 |
| SB 232  | Privacy/Child Witness                     | No Action | S: Ref. to Com. on J-4 3-30-87        |
| SB 521  | Protective Services Speciried             | No Action | S: Re-Ref. Com. on Approp. 5-21-87    |

|        |                                      |                     |  |
|--------|--------------------------------------|---------------------|--|
| SB 526 | Felony Child Abuse Change            | Endorsed<br>Concept | H: Ref. to Com.<br>J-4 5-19-87           |
| SB 599 | Juveniles-Implied Consent<br>Law     | Endorsed            | S: Ref. to Com.<br>on J-3 4-21-87        |
| SB 602 | Certification of Child<br>Placement  | No Action           | Ratified<br>Ch. 716 8-3-87               |
| SB 614 | Child pornography/<br>Forfeit Assets | No Action           | S: Ref. to Com. on<br>J-3 4-22-87        |
| SB 708 | Home Schools Regulated               | No Action           | S: Ref. to Com.<br>on Educ. 5-1-87       |
| SB 779 | Home Schools/Compulsory<br>Education | No Action           | S: Ref. to Com.<br>on Educ. 5-1-87       |
| SB 787 | Children and Youth<br>Commission     | No Action           | S: Ref. to Com.<br>on Approp. 5-1-87     |
| SB 808 | Minors Can't Use Tobacco<br>Products | Endorsed            | S: Re-Ref. to Com.<br>on Finance 5-26-87 |

## 1987-1988 LEGISLATION INITIATED OR REWRITTEN BY

THE JUVENILE LAW STUDY COMMISSION (Appendix C Contains These Bills.)

| <u>Bill Number</u> | <u>Short Title</u>                  | <u>Legis. Action</u>                  | <u>Page</u> |
|--------------------|-------------------------------------|---------------------------------------|-------------|
| HB 186             | Short Term Commitments of Juveniles | Ratified<br>Ch. 100 ('87)             | (C-1)       |
| HB 187             | Secure Custody Change               | Ratified<br>Ch. 101 ('87)             | (C-2)       |
| HB 188             | Juvenile Detention Clarification    | Ratified<br>Ch. 144 ('87)             | (C-3)       |
| HB 786             | Juvenile Records                    | Ratified<br>Ch. 372 ('87)             | (C-4)       |
| HB 930             | Juvenile Transportation Program     | H: Ref. to Com.<br>on Approp. E ('87) | (C-5)       |
| HB 2098            | Juvenile Supervisor Funds           | H: Ref. to Com.<br>on Approp. E ('87) | (C-6)       |
| SB 367             | Juvenile Code Revision              | S: Re-Ref. Com.<br>on Approp. ('87)   | (C-7)       |

## RECOMMENDATIONS TO THE GOVERNOR AND THE 1989 GENERAL ASSEMBLY

1. Transportation of Delinquent Juveniles to Detention Centers and to State Training Schools. The Report of the Juvenile Law Study Commission to the Governor and the 1987 General Assembly recommended the establishment of a Juvenile Transportation Program within the Division of Youth Services, Department of Human Resources as its Legislative Proposal Number 1. This report included a specific bill to implement this recommendation (see pages 22-23 of the 1987 Report), and this bill originally included an appropriation of \$90,000 to fund the juvenile transportation program. After further study, the appropriation to fund the program was increased to \$716,620.

The Commission has continued to study the need for a juvenile transportation program during 1987-88. The bill recommended by the Commission was introduced in the 1987 General Assembly as House Bill 930. The bill was referred to an Appropriations Committee of the House of Representatives. The bill was never reported out of the Appropriations Committee during the 1987 session so it was eligible for consideration during the short session of the General Assembly during 1988. The bill died with the adjournment of the 1988 short session.

There are a number of complicating factors which concerned the Division of Youth Services and the Commission. One important fact is that this bill was not recommended by the Department of Human Resources or the Governor during the 1987 and 1988 sessions. Further, the Division of Youth Services expressed concern about some of the implications of this bill. The student population in juvenile training schools continued to grow to be 650 to 700 students, thus increasing the costs of juvenile transportation. Further, there have been important changes in juvenile law and the criteria for

commitment to training school during the last ten years so that the type of child committed to training school has changed. The delinquents committed to training school now are the more aggressive youth who have committed more serious crimes so that there are important security issues in transportation that must be considered.

G.S. 7A-652(d) gives the chief court counselor in each judicial district the responsibility for transporting juvenile delinquents who are committed to training school to the residential facility or training school designated by the Division of Youth Services. Further, this statute requires that a juvenile must be accompanied on the trip to training school by a person of the same sex. If a delinquent child is detained pending adjudication or disposition or while awaiting admission to training school, G.S. 7A-574(d) authorizes the judge ordering secure detention to enter an order directing an officer or other authorized person to assume custody of the juvenile and to take the juvenile to the place of detention designated in the detention order. Thus, there are two basic types of transportation problems: to a juvenile detention center or to a juvenile training school. While a child is detained in a juvenile detention facility, there are other transportation needs, including to the court for juvenile hearings, to a physician for medical care or medical examinations, and others.

There are several different models for transportation of juveniles to juvenile detention centers and state training school. Sec. 63 of the 1983 appropriations act for current operations of state agencies (Chapter 761, 1983 Session Laws) established a pilot project for transportation of juveniles at the Buncombe County Regional Detention Center in Asheville. It appropriated \$57,542 for fiscal year 1983-84 (this appropriation included state funds to purchase cars) and \$36,640 for fiscal year 1984-85. This program provides



transportation for juveniles in the seven counties of the 30th Judicial District. Since 1984, The General Assembly has continued to appropriate \$36,640 to the Department of Human Resources each fiscal year for the transportation program operating out of the Buncombe County Regional Detention Center. Under the Buncombe model, the staff of the Detention Center who provide transportation services are county employees who are transportation officers who drive vehicles that were originally purchased with state funds. At the present time, these state vehicles are in poor condition, need replacement, but there are no state or county funds appropriated for new vehicles for this program.

There is another model that operates from the Pitt Regional Detention Center (state-operated regional detention center in Greenville, N.C.). This program uses state personnel who are full-time or part-time (often the part-time employees are college students). In some counties, transportation for juveniles is provided by local law-enforcement officers (usually a deputy sheriff but a local police officer in one community). These officers are reimbursed at the rate of 50 cents per mile by the Division of Youth Services through county government from state funds appropriated to the Division for the law-enforcement transportation subsidy. Thus, the arrangements for transportation of juveniles vary considerably from county to county.

There are four juvenile detention centers operated by the state (Cumberland, Gaston, Wilkes, Pitt), and these centers provide regional detention services to the counties in their areas and contain a total of 47 state-operated beds. Four county-operated detention centers (Buncombe, Forsyth, Guilford, Lower Cape Fear) receive a state subsidy in return for providing regional detention services for juveniles from the counties in that area, and they provide 76 regional beds for juvenile detention. Three county-

operated programs provide detention services only for juveniles from that county (Gatling Center in Mecklenburg, Durham County, Wake County), and they provide 38 beds for juveniles from those three counties. The 1988-89 fiscal year budget for the Division of Youth Services provides state funds to operate the four state-owned detention centers, \$36,460 for the Buncombe Detention Center regional transportation program, and \$120,000 for the law-enforcement transportation subsidy, (50 cents per mile for transporting juveniles), and \$350,000 for the state subsidy to county detention centers providing regional detention services. Thus, \$156,460 in state funds is appropriated for the 1988-89 fiscal year to the Department of Human Resources for the Division of Youth Services for transportation of juveniles.

The number of juveniles detained in North Carolina has been increasing each year since the 1985-86 fiscal year when 4,257 children were detained; about 4,791 juveniles were detained in 1986-87; there were 5,385 children detained in 1987-88. An increase in this number of juveniles detained is projected for 1988-89.

Court counselors are frequently involved in transportation to juvenile detention centers and juvenile training schools. The Administrative Office of the Courts was unable to give us the amount of state funds appropriated during the 1988-89 fiscal year for transportation services to juveniles by court counselors. A court counselor is sometimes responsible for transporting a juvenile alone, and the court counselor is usually driving an ordinary automobile (his own or a state car) that does not contain appropriate security equipment to contain the juvenile. The juveniles that are now committed to training school are the more aggressive or dangerous juveniles who are unable to make it in available community-level resources. Thus, the court counselor must accomplish the following: be a safe driver; prevent the juvenile from



escaping; and interact with the juvenile as a court counselor. Thus, some court counselors are using a considerable amount of expensive professional time providing pure transportation that could be provided by a less expensive transportation worker.

The staff of the Juvenile Law Study Commission consulted with the N.C. Sheriff's Association to determine whether the sheriffs would be willing to take more responsibility for transportation of juveniles if they could be reimbursed at a higher rate for juvenile transportation services. The state's sheriffs want to get out of the juvenile transportation business. They feel that staff trained to work with juveniles should provide juvenile transportation services. Further, the sheriffs are concerned about continuing to keep juveniles out of jails in North Carolina. Further, with limited staffing in some sheriff's offices, some sheriff's departments are not adequately staffed to provide one or two staff members to transport juveniles to detention centers and juvenile training schools.

The Juvenile Law Study Commission is quite concerned about the serious problems related to providing transportation of delinquent juveniles to juvenile detention centers and training schools. There are a variety of transportation programs across the state which vary according to local practices, availability of funding, and level of staffing in the court counselor program and local law enforcement agencies. There are serious safety problems in some areas because there are no funds available to replace state cars that have been used for juvenile transportation. There are other safety problems when one court counselor or law enforcement officer must transport a child to a juvenile detention center or training school in a car that does not contain appropriate security equipment to prevent the juvenile from jumping out of the car. Further, if the driver must be responsible for

safe driving, relating to the juvenile, and delivery of the child to the designated detention center or training school, the driver or the state are exposed to liability in civil court for negligence, improper equipment, or inadequate staffing of the trip. Some juveniles are handcuffed for security reasons while being transported to detention centers and training schools.

The agencies responsible for juvenile transportation (including the Court Counselor program, the Division of Youth Services, and the N.C. Sheriffs Association) agree that the state must develop a program for juvenile transportation that is safe, secure when appropriate, and that provides safe vehicles. These agencies do not agree on the details of how a cost-effective and safe transportation program could be developed.

There is general agreement on the following: Juvenile transportation should be provided by transportation workers whose primary responsibility is transportation of juveniles, with appropriate safety precautions and with adequately-equipped vehicles that would provide secure custody while the juvenile is being transported. The only feasible approach seems to be for these transportation workers to be employees of a state agency, such as the Division of Youth Services of the Department of Human Resources, or the court counselor staff of the Administrative Office of the Courts.

The court counselors of the Administrative Office of the Courts are required to travel to juvenile training schools to visit juvenile clients in training schools and to participate in the pre-release planning conference that is required at the training school prior to the release of a juvenile. With some planning, the court counselors could provide some cost-effective transportation services as they fulfill these responsibilities, provided they had autos with appropriate security equipment.

Recommendation Number 1. The Commission strongly recommends that the

Governor and the 1989 General Assembly consider the need for an adequate, safe and cost-effective juvenile transportation program to be a critical problem which requires the highest possible priority in state government. The Governor should direct the Department of Human Resources to establish a committee to conduct a study to determine the most appropriate way to implement an adequate program for transportation of juvenile offenders to detention centers and state training schools. The composition of this committee should include representatives of state agencies with a responsibility or knowledge about such transportation problems, including the Administrative Office of the Courts, Division of Youth Services of the Department of Human Resources or any other appropriate division of the Department of Human Resources, Department of Transportation, Department of Corrections, and other state agencies as appropriate. Further, this committee should include representatives of the North Carolina Sheriffs' Association, district judges who exercise juvenile jurisdiction, staff of existing state-operated and county juvenile detention centers, and juvenile court counselors.

The Commission further urgently recommends that the present unsafe and inadequate programs providing such juvenile transportation services not be allowed to continue to operate any longer than is absolutely necessary because of the risk to the children involved and the potential liability of counties or the state due to the operation of such an inadequate and unsafe juvenile transportation program.

We therefore request that this committee should report to the Governor and the Juvenile Law Study Commission by a written report including recommendations concerning improved juvenile transportation services, specific recommended legislation to implement the report, and state appropriations required to fund the program by January 1, 1990 so that the Governor may study

the report and recommend appropriate legislative action to the 1990 General Assembly.

2. The Guardian ad Litem Services, Administrative Office of the Courts. The Commission has studied the Guardian ad Litem program during parts of two of its regular meetings. This program was established by the General Assembly in 1983 after the Juvenile Law Study Commission was created, having been established by the General Assembly in 1980 at the time the Juvenile Code became effective. The Commission has reviewed its present membership in terms of whether its members adequately represent the juvenile justice system, and it noted that the present membership does not include any member who is primarily a child advocate. The Commission decided that one of its members should be a representative of the Guardian ad Litem Services since this program operates through volunteers who are trained to be child advocates in juvenile proceedings.

The composition of the Juvenile Law Study Commission is provided for in G.S. 7A-740. This statute now provides that two of the Commission's members shall be youths under age 21 at the time of their appointment by the Governor, and these two youth members are appointed for indefinite terms. During the time that the Commission has been meeting, it has frequently been difficult for the two youth members to attend because they had commitments in the public schools, and they sometimes had to travel a long distance to meetings. During the last two years, the youth members have usually been unable to attend. The Commission decided to recommend that there be only one youth member and that a state or local representative of the Guardian ad Litem Services be substituted for one of the youth members. The Commission concluded that this change in membership of the commission would provide for more effective communication between the Commission and the Guardian ad Litem Services.

Recommendation Number 2. The Commission recommends an amendment to G.S. 7A-740 creating the Juvenile Law Study Commission to require that the Governor appoint an appropriate representative of the Guardian ad Litem Program to replace one of the two youth members of the Commission appointed by the Governor who must be under age 21 at the time of their appointment.

Therefore, the Commission recommends that the following bill be enacted by the 1989 General Assembly:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

THIS IS A DRAFT 30-DEC-88

Short Title:

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR APPOINTMENT OF A REPRESENTATIVE OF THE GUARDIAN AD LITEM PROGRAM TO BE A MEMBER OF THE JUVENILE LAW STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The eighth sentence of G.S. 7A-740 shall be rewritten to read: "One shall be a youth member representing the youth of the state who shall be a person under the age of 21 at the time of the appointment who shall serve for one year. One shall be a state or local representative of the Guardian ad Litem Services of the Administrative Office of the Courts who shall serve for two years.

Sec. 2. This act is effective upon ratification."



3. Clarification of the Procedure for a Secure Custody Order if the Juvenile is not a Resident of the District where the Juvenile Detention Center is located. Commission member Lynn Hughes (Chief Court Counselor, 24th Judicial District, Newland, N.C.) requested that the Commission support a bill that would clarify the right to detain a juvenile in secure custody if a PIN message indicates there is a juvenile petition and secure custody order on the juvenile in another county.

Recommendation Number 3. The Commission recommends that the 1989 General Assembly enact the following bill to deal with this problem.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

THIS IS A DRAFT 30-DEC-88

Short Title:

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY DETENTION PROCEDURE WHEN A PIN MESSAGE INDICATES THERE IS A PETITION AND SECURE CUSTODY ORDER ON A JUVENILE IN ANOTHER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-575 is amended by adding the following new sentence at the end of the first paragraph to read:

"A DCI message (a message of the Division of Criminal Information, State Bureau of Investigation) stating that a juvenile petition and secure custody order relating to a specified juvenile is on file in a particular county shall be authority to detain the juvenile in secure custody until the juvenile petition and secure custody order can be forwarded to the juvenile detention facility."

Sec. 2. This act is effective on July 1, 1989.



#### 4. Protecting Siblings Not Directly Involved in Child or Sexual Abuse.

During several meetings, the Commission discussed whether the death of a child under questionable circumstances or severe physical abuse or sexual abuse of one child in a family could justify the court taking protective custody of other children in the home who survived or were not directly involved in the abuse. The Commission was particularly concerned when it learned that several district judges in the same judicial district could not agree on whether the court had jurisdiction to take protective action or remove the other children from the home in such a case. Some judges would dismiss such a case; other judges would interpret the broadly-worded North Carolina Juvenile Code to give the court protective jurisdiction of the other children as neglected or abused juveniles.

The Commission was also concerned that under the rules of evidence, evidence of prior abuse of a sibling may not be admissible in a juvenile proceeding to determine whether another child in the same family is within the juvenile jurisdiction of the court as abused or neglected. Further, whether such evidence was admissible might depend on whether the case is a criminal or juvenile case. The North Carolina Juvenile Code (G.S. 7A-634) provides that in juvenile cases involving abuse, neglect or dependency, the rules of evidence in civil cases must be followed. Some courts admit evidence of prior abuse of a sibling in their concern to protect the other children in the home from the same parent or caretaker. In admitting such evidence, the courts have stated that it is not necessary to wait until the child is dead or severely injured before exercising protective juvenile jurisdiction. The juvenile codes in some states specifically give the court authority to remove the other siblings from the custody of such a parent or caretaker.

In several North Carolina criminal cases where the defendant has been

charged with rape of a child, the North Carolina appellate courts have allowed evidence of similar prior sex acts of the defendant as relevant to whether the defendant is guilty of the crime charged if the evidence of prior sexual behavior shows a relevant state of mind such as intent, motive, plan, or opportunity (State v. Boyd, 321 N.C. 574 (1988); State v. Goforth, 59 N.C. App. 504 (1982)). The general rule in North Carolina is that prior offenses of the same nature as the crime charged are not admissible to prove guilt in a criminal case. One exception to this general rule is that evidence of other previous crimes is admissible when it tends to establish a common plan or scheme of a series of crimes so related to each other than proof of one tends to prove the crime charged.

Recommendation Number 4. The Commission recommends that the following bill be enacted by the 1989 General Assembly to clarify the protective jurisdiction of the court in such cases.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

THIS IS A DRAFT 30-DEC-88

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF NEGLECTED CHILD WITHIN THE  
JUVENILE JURISDICTION OF THE DISTRICT COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-517 (21) is rewritten to read as follows:

"(21) Neglected Juvenile.--A juvenile who does not receive proper care, supervision, or discipline from his parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care or other remedial care recognized under State law, or who lives in an environment injurious to his welfare, or who lives in a home where another child dies under questionable circumstances or a home where another child is subjected to sexual abuse or severe physical abuse, or who has been placed for care or adoption in violation of law."

Sec. 2. This act is effective on July 1, 1989.

5. Custody to Parent in Judicial Review Hearings. The Commission was requested by Chief Judge George Bason of Wake County to review the case of In re Shue, 63 N.C. App. 76 (1983), modified 311 N.C. 586 (1984). Judge Bason asked the Commission to propose an amendment to G.S. 7A-657 which would authorize the court to award custody to a parent during a review hearing. In the Shue case, the department of social services filed a juvenile petition alleging that Loretta, age 3, had been physically abused. The court found the child had been injured by an assault of the mother or her boyfriend and placed the child in the custody of the department of social services. Later the father filed a motion in the juvenile case requesting custody of the child. The court ordered that the department of social services retain legal custody of the child, but the court ordered the department of social services to make a trial placement of the child with the father. The court conducted a review hearing under G.S. 7A-657 which is required in any case where the judge removes custody from a parent. At this review hearing, the court considered the written reports of professionals which recommended that the child remain with the father. The court declined to hear the evidence from witnesses for the mother. The child was placed by the court in the custody of the father, with the custody order giving liberal visiting rights to the mother. On appeal, the North Carolina Court of Appeals reversed the order giving custody to the father and remanded the case back to the district court for a new review hearing under G.S. 7A-657. The North Carolina Supreme Court affirmed the order of the Court of Appeals for a new review hearing, but modified the Court of Appeals order. The Supreme Court ruled that the district court cannot award custody to a parent (as distinguished from a trial placement of the child with a parent) during a review hearing under G.S. 7A-657 unless the person requesting custody files a motion in the juvenile proceeding pursuant

to G.S. 50-13.1 requesting custody and all parties have notice that a custody determination will be made during the review hearing.

Recommendation Number 5. The Commission recommends that the following bill be enacted to authorize the district court to award custody to a parent in a review hearing under G.S. 7A-657.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE AUTHORITY OF THE DISTRICT COURT TO AWARD CUSTODY OF A  
CHILD TO A PARENT IN A JUDICIAL REVIEW HEARING UNDER G.S. 7A-657

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-659(d) is rewritten to read as follows:

"(d) The judge, after making findings of fact, shall have authority to make any disposition authorized by G.S. 7A-647, including the authority to place the child in the custody of either parent or any relative found by the court to be suitable. The court may enter an order continuing the placement under review or providing for a different placement as is deemed to be in the best interest of the juvenile. If at any time custody is restored to a parent, the court shall be relieved of the duty to conduct periodic judicial review of the placement."

Sec. 2. This act is effective on July 1, 1989.

6. Change in Statute on Expunction for Juveniles Adjudicated Delinquent or Undisciplined.

G.S. 7A-676 provides for expunction of an adjudication that a juvenile is delinquent or undisciplined under specified circumstances. Article 5, G.S. Chapter 15A provides for expunction of records for first offenders under the age of 18 years at the time of conviction of a misdemeanor (G.S. 15A-145). G.S. 15A-146 also provides for expunction of records if a person is charged with a crime (either a misdemeanor or felony) if the charge is dismissed or the person charged is found not guilty in criminal court. Chief District Judge Hallett Ward of the Second Judicial District has requested that the Commission introduce and support an amendment to G.S. 7A-676 to authorize expunction of the records of a juvenile alleged to be delinquent or undisciplined where the court does not find that the juvenile committed the offense charged in the petition or where the case is dismissed without an adjudication for any reason.

Recommendation Number 6. The Commission recommends passage of the following bill providing for expunction when the court finds that the juvenile did not commit the offense or dismisses the case without an adjudication that the juvenile is delinquent or undisciplined.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

Short Title:

(public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR EXPUNCTION OF THE JUVENILE RECORDS IN CASES WHERE THE COURT DOES NOT ADJUDICATE THE JUVENILE TO BE DELINQUENT OR UNDISCIPLINED.

The General Assembly of North Carolina enacts:

Section 1. The heading of G.S. 7A-676 reads as rewritten:

"§ 7A-676. Expunction of records of juveniles alleged or adjudicated delinquent and undisciplined."

Sec. 2. G.S. 7A-676 is amended by adding a new subsection (h) to read:

"(h) Any juvenile or any person who has attained the age of 16 years may file a petition in the court where he was alleged to be delinquent or undisciplined for expunction of all juvenile records of his having been alleged to be delinquent or undisciplined if the court dismissed the juvenile petition without an adjudication that the juvenile was delinquent or undisciplined. The petition shall be served on the chief court counselor in the district where the juvenile petition was filed. The chief court counselor shall have 10 days thereafter in which to file a written objection in the court. If no objection is filed, the judge may grant the petition without a



hearing. If an objection is filed or the judge so directs, a hearing shall be scheduled and the chief court counselor shall be notified as to the date of the hearing. If the judge finds at the hearing that the petitioner satisfies the conditions specified herein, the judge shall order the clerk of superior court and the appropriate law enforcement agencies to expunge their records of the allegations of delinquent or undisciplined acts including all references to arrests, complaints, referrals, juvenile petitions, and orders. The clerk of superior court shall forward a certified copy of the order of expunction to the sheriff, chief of police, or other appropriate law-enforcement agency, and to the chief court counselor, and these specified officials shall immediately destroy all records relating to the allegation that the juvenile was delinquent or undisciplined."

Sec. 3. This act shall become effective July 1, 1989.



## APPENDIX A

Current Statutes Authorizing and Regulating the Juvenile Law Study Commission

## § 7A-733 ART. 58. JUVENILE LAW STUDY COMMISSION § 7A-740

A judge's authorization for treatment under this Article, shall have the same effect as parental consent for treatment.

Following a judge's authorization for treatment and after giving notice to the juvenile's parent, the judge shall conduct a hearing in order to provide for payment for the treatment rendered. The judge may order the parent or other responsible parties to pay the cost of such treatment. If the judge finds the parent is unable to pay the cost of treatment, such cost shall be a charge upon the county when so ordered.

This Article shall operate as a remedy in addition to the provisions in G.S. 7A-647(3). (1979, c. 815, s. 1.)

**Legal Periodicals.** — For article on family and State, see 4 Campbell L. Rev. rights and interests of parent, child, 85 (1981).

§§ 7A-733 to 7A-739: Reserved for future codification purposes.

## ARTICLE 58.

*Juvenile Law Study Commission.*

## § 7A-740. Creation; members; terms; qualifications; vacancies.

The Juvenile Law Study Commission is hereby created. It shall consist of 18 voting members, 14 to be appointed by the Governor, two by the President of the Senate, and two by the Speaker of the House of Representatives. The members appointed by the President of the Senate shall be members of the Senate at the time of their appointment; the members appointed by the Speaker of the House of Representatives shall be members of the House of Representatives at the time of their appointment. Of the members appointed by the Governor, two shall be district court judges, one from an urban district, one from a rural. Three shall be a chief court counselor and two court counselors representing the Intake Division, one from an urban district, one from a rural. Two shall be from Social Services, one from the State level and one from the county. One shall be from the Division of Youth Services. One shall be from a local facility of Community Based Alternatives. Two shall be persons under the age of 21 at the time of their appointment. One shall be from Law Enforcement. One shall be from the North Carolina Juvenile Detention Association. One shall be the member of the Juvenile Justice Planning Committee of the Governor's Crime Commission recommended for appointment by the Juvenile Justice Planning Committee and shall serve for three years. The district court judges and the Social Services members shall serve for three years. The chief court counselor and the court counselors shall serve for two years. The representatives from the Division of Youth Services, Law Enforcement, Community Based Alternatives, and the Juvenile Detention Association shall serve for one year. The legislative members shall serve for two-year terms. All initial terms shall begin July 1, 1980. A vacancy in membership shall be



filled by the appointing authority who made the initial appointment. When the members' terms expire, their successors shall serve for the same length of time their predecessors served. A member whose term expires may be reappointed. If, when a term expires, the appointing authority has not filled the vacancy, the member whose term has expired shall continue to serve until the appointment is made. (1979, 2nd Sess., c. 1283, s. 1; 1981 (Reg. Sess., 1982), c. 1189, s. 1; 1985, c. 669, ss. 1-4; 1985 (Reg. Sess., 1986), c. 898.)

**Editor's Note.** — Session Laws 1985, c. 669, s. 5 makes the act effective upon ratification and applicable to appointments made on and after that date. Section 5 further provides that s. 1, which inserted the present third sentence, and s. 4, which rewrote the present sixteenth sentence, shall apply only to legislative members appointed on and after that date. The act was ratified July 10, 1985.

**Effect of Amendments.** — The 1985 amendment, effective July 10, 1985, substituted "18 voting members" for "17

voting members" and substituted "14 to be appointed" for "13 to be appointed" in the second sentence, inserted the present third sentence, inserted the present twelfth sentence and rewrote the present sixteenth sentence, which read "Two of the legislative members shall serve for four-year terms; two shall serve for two years."

The 1985 (Reg. Sess., 1986) amendment, effective July 3, 1986, added the last sentence.

### § 7A-741. Duties.

It shall be the duty of the Commission to make continuing studies of the law, both statutory and judicial, as it pertains to juveniles, of agency services available to juveniles and their families, and of any other matters the Commission identifies as being of importance to State consideration of juveniles. The Commission shall report to the Governor and the General Assembly on or before the first day of each full session. The report shall be in writing and shall set forth the Commission's findings, conclusions, and recommendations including any proposed legislation. (1979, 2nd Sess., c. 1283, s. 1.)

### § 7A-742. Chairman; meetings; compensation of members.

The Governor shall appoint a chairman. The term of the chairman is two years and he may be reappointed. The Commission shall meet at such times and places as the chairman shall designate. The facilities of the State Legislative Building shall be available to the Commission, subject to approval of the Legislative Services Commission. Legislative members of the Commission shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1. Members of the Commission who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Commission who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rate set out in G.S. 138-6. (1979, 2nd Sess., c. 1283, s. 1.)

§ 7A-743 ART 60 OFFICE OF ADMINISTRATIVE HEARINGS § 7A-750

§ 7A-743: Reserved for future codification purposes.

#### § 7A-744. Supporting services.

The Commission may solicit, employ, or contract for technical assistance and clerical assistance, and may purchase or contract for the materials and services it needs. Subject to the approval of the Legislative Services Commission, the staff resources of the Legislative Services Commission shall be available to this Commission without cost except for travel, subsistence, supplies, and materials. (1979, 2nd Sess., c. 1283, s. 1.)

### ARTICLE 59.

§§ 7A-745 to 7A-749: Reserved for future codification purposes.

## SUBCHAPTER XII. ADMINISTRATIVE HEARINGS.

### ARTICLE 60.

#### *Office of Administrative Hearings.*

#### § 7A-750. Creation; status; purpose.

There is created an Office of Administrative Hearings. The Office of Administrative Hearings is an independent, quasi-judicial agency under Article III, Sec. 11 of the Constitution and, in accordance with Article IV, Sec. 3 of the Constitution, has such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which it is created. The Office of Administrative Hearings is established to provide a source of independent hearing officers to preside in administrative cases and thereby prevent the commingling of legislative, executive, and judicial functions in the administrative process. It shall also maintain dockets and records of contested cases and shall codify and publish all administrative rules. (1985, c. 746, s. 2.)

**Editor's Note.** — Session Laws 1985, c. 746, s. 19 makes this Article effective upon notification. The act was ratified July 12, 1985. Section 19 further provides that the act shall not affect contested cases commenced before Jan. 1, 1986.

In addition, s. 19 of Session Laws 1985, c. 746 provides that the act shall expire Jan. 1 1992, and shall not be effective on or after that date.

Session Laws 1985, c. 746, s. 12 is a severability clause.

## APPENDIX B

Juvenile Law Study Commission Membership: 1987-1988.



Juvenile Law Study Commission

March 1987

Judge Sherry Alloway, Chair  
1010 Guilford Avenue  
Greensboro, NC 27401

Ms. Rosa Jones  
9718 Feldbank Drive  
Charlotte, NC 28216

Rep. William Alexander  
1589 Daybreak Ridge Road  
Kannapolis, NC 28081

Mr. Edwin Koontz  
1236 W. Innes Street  
Salisbury, NC 28144

Rep. Anne Barnes  
313 Severin Street  
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Mr. David Byron Lopp  
P.O. Box 47  
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Ms. Bonnie Cramer  
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Judge William Neely  
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Mr. Lee Crites  
Route 2, Box 113-A  
Sylva, NC 28779

Ms. Nancy Smyth  
Route 8, Box 1527-C  
Human Resource Building  
Lincolnton, NC 28092

Ms. Ann Dalton  
Route 2, Box 176  
Madison, NC 27025

Mr. Robert Wesley, Jr.  
P.O. Box 7685  
Winston-Salem, NC 27109

Sherriff W.R. Hall  
P.O. Box 827  
Dobson, NC 27017

Mr. Steve Williams  
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Raleigh, NC 27605

Sen. Charles Hipps  
505 N. Main Street  
Waynesville, NC 28786

Mr. Clayton Yates  
Route 1, Box 53-AA  
Purlear, NC 28665

Mr. Lynn Hughes  
Box 306  
Newland, NC 28657

Committee Clerk  
Randy L. Brantley  
P.O. Box 2621  
Chapel Hill, NC 27514

JUVENILE LAW STUDY COMMISSION

January 1988

Judge Sherry Alloway, Chair  
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Greensboro, NC 27401  
(Judge - Urban)

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Kannapolis, NC 28081  
(N.C. House)

Rep. Anne Barnes  
313 Severin Street  
Chapel Hill, NC 27514  
(N.C. House)

Mr. Charles Casper  
1238 Nealy Drive  
Asheboro, NC 27203  
(Senate Appointment)

Ms. Gwyndolyn Chunn  
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Raleigh, NC 27603  
(Rep. of Youth Services)

Ms. Bonnie Cramer  
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(Social Services - State)

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(Under 21 years)

Sen. Charles Hipps  
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Mr. David B. Lopp  
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(Under 21 years)

Sheriff Fred Spruill  
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(Rep. of Law Enforcement)

Judge William Neely  
Route 9, Box 117  
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(Judge - Rural)

Ms. Nancy Smyth  
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(Rep. of C.B.A.)

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Mr. Clayton Yates  
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JUVENILE LAW STUDY COMMISSION

November 1988

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(Under 21 years)

Senator Helen Marvin  
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(Judge - Rural)

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Mr. Robert Wesley, Jr.  
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(Rep. of Juv. Dent. Assoc.)

## APPENDIX C

Legislation Initiated or Rewritten by the Juvenile Law Study Commission:  
1987-1988.

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION  
RATIFIED BILL

CHAPTER 100  
HOUSE BILL 186

AN ACT TO PROVIDE FOR SHORT-TERM COMMITMENTS OF JUVENILES  
TO LOCAL APPROVED FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-652(c) is rewritten to read:

"(c) In no event shall commitment of a delinquent juvenile be for a period of time in excess of that period for which an adult could be committed for the same act. Any juveniles committed for an offense for which an adult would be sentenced for 30 days or less shall be assigned to a local detention home as defined by G.S. 7A-517(15) or a regional home as defined by G.S. 7A-517(26)."

Sec. 2. This act shall become effective October 1, 1987, and applies to juveniles committed on and after that date.

In the General Assembly read three times and ratified this the 27th day of April, 1987.

ROBERT B. JORDAN III

---

Robert B. Jordan III  
President of the Senate

LISTON B. RAMSEY

---

Liston B. Ramsey  
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION  
RATIFIED BILL

CHAPTER 101  
HOUSE BILL 187

AN ACT TO PROVIDE TEMPORARY SECURE CUSTODY FOR JUVENILES  
CHARGED WITH CERTAIN MISDEMEANORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-574(b) is amended by inserting a new subdivision between (1) and (2), to read:

"(1.1) The juvenile is presently charged with a misdemeanor at least one element of which is assault on a person; or".

Sec. 2. This act shall become effective October 1, 1987.

In the General Assembly read three times and ratified this the 27th day of April, 1987.

ROBERT B. JORDAN III

---

Robert B. Jordan III  
President of the Senate

LISTON B. RAMSEY

---

Liston B. Ramsey  
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION  
RATIFIED BILL

CHAPTER 144  
HOUSE BILL 188

AN ACT TO CLARIFY THE LAW REGARDING DETENTION OF A JUVENILE  
BOUND OVER TO SUPERIOR COURT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-611 is rewritten as follows:

"§ 7A-611. **Right to pretrial release; detention.**--Once the order of transfer has been entered, the juvenile has the right to pretrial release as provided in G.S. 15A-533 and 15A-534. Pending release under this Article, the judge shall order that the juvenile be detained in a local detention home as defined by G.S. 7A-517(15) or a regional detention home as defined by G.S. 7A-517(26) while awaiting trial. The judge may order the juvenile to be held in a holdover facility as defined by G.S. 7A-517(16) at any time the presence of the juvenile is required in court for pretrial hearings or trial, if the judge finds that it would be inconvenient to return the juvenile to the local or regional detention home.

Should the juvenile be found guilty, or enter a plea of guilty or no contest to criminal offenses in superior court and the juvenile receives an active sentence, then immediate transfer to the Department of Correction shall be ordered. Until such time as the juvenile is transferred to the Department of Correction, the juvenile may be detained in a holdover facility as defined by G.S. 7A-517(16). The juvenile may not be detained in a local detention home as defined by G.S. 7A-517(15) or a regional detention home as defined by G.S. 517(26) pending transfer to the Department of Correction. The juvenile may be kept by the Department of Correction as a safekeeper until the juvenile is placed in an appropriate correctional program."

Sec. 2. This act shall become effective October 1, 1987.

In the General Assembly read three times and ratified this the 6th day of May, 1987.

ROBERT B. JORDAN III

Robert B. Jordan III  
President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey  
Speaker of the House of Representatives



GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION  
RATIFIED BILL

CHAPTER 372  
HOUSE BILL 786

AN ACT TO REQUIRE THAT TREATMENT-RELATED RECORDS  
ACCOMPANY A JUVENILE TO TRAINING SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-652 is amended by adding a new subsection (d1) after subsection (d) as follows:

"(d1) The Chief Court Counselor shall insure that the records requested by the Director of Youth Services accompany the juvenile upon transportation for admittance to a training school or, if not obtainable at the time of admission, are sent to the training school within 15 days of the admission. If records requested by the Division of Youth Services for admission do not exist, to the best knowledge of the Chief Court Counselor, he shall so stipulate in writing to the training school. If such records do exist, but the Chief Court Counselor is unable to obtain copies of them, a district court judge may order that the records from public agencies be made available to the training school. Records that are confidential by law shall remain confidential and the Division of Youth Services shall be bound by the specific laws governing the confidentiality of these records. All records shall be used in a manner consistent with the best interest of the juvenile."

Sec. 2. This act shall become effective October 1, 1987.

In the General Assembly read three times and ratified this the 15th day of June, 1987.

ROBERT B. JORDAN, III

Robert B. Jordan III  
President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey  
Speaker of the House of Representatives

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 1987**

**H**

**1**

**HOUSE BILL 930**

Short Title: Juvenile Transportation Program.

(Public)

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Sponsors: Representatives Barnes; Alexander.

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Referred to: Appropriations.

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April 23, 1987

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH A STATEWIDE JUVENILE TRANSPORTATION  
3 PROGRAM.

4 The General Assembly of North Carolina enacts:

5               Section 1. There is established a Juvenile Transportation Program within  
6 the Division of Youth Services, Department of Human Resources. This program will  
7 expand the 1983-84 Buncombe County Pilot Project established by Section 63 of  
8 Chapter 761 of the 1983 Session Laws to provide a statewide uniform system of  
9 transportation of juveniles to juvenile detention centers and to provide a similar  
10 system for transportation of juveniles to training schools.

11               The Secretary of the Department of Human Resources shall adopt rules  
12 necessary to administer this program. The Division of Youth Services shall report on  
13 the progress of the development of this program to the Joint Legislative Commission  
14 on Governmental Operations and to the Fiscal Research Division of the Legislative  
15 Services Division by May 1, 1988.

16               Sec. 2. There is appropriated from the General Fund to the Division of  
17 Youth Services, Department of Human Resources, the sum of ninety thousand dollars  
18 (\$90,000) for fiscal year 1987-88 to implement this act.

19               Sec. 3. G.S. 7A-652(d) is amended by rewriting the first sentence to read:

1 "The Division of Youth Services has the responsibility for transporting the  
2 juvenile to the residential facility designated by the Division."

3 Sec. 4. Section 3 of this act shall become effective October 1, 1987, only  
4 if Sections 1 and 2 are enacted into law by the 1987 General Assembly.

5 Sec. 5. Sections 1 and 2 of this act shall become effective July 1, 1987.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1987**

**H**

**1**

**HOUSE BILL 2098**

Short Title: Undisciplined Juveniles Supervision Funds.

(Public)

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Sponsors: Representatives Barnes; Blue, Nesbitt, Hackney.

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Referred to: Appropriations.

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May 29, 1987

**A BILL TO BE ENTITLED**

**AN ACT TO APPROPRIATE FUNDS FOR INTENSIVE SUPERVISION  
SERVICES FOR UNDISCIPLINED JUVENILES AND THEIR FAMILIES.**

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of two hundred twenty-six thousand dollars (\$226,000) for the 1987-88 fiscal year and the sum of two hundred twenty-six thousand dollars (\$226,000) for the 1988-89 fiscal year, to continue the intensive juvenile probation program established by Section III of Chapter 757 of the 1985 Session Laws and to expand it to include intensive supervision of undisciplined juveniles.

Sec. 2. There is appropriated from the General Fund to Bringing It All Back Home Study Center at Appalachian State University the sum of thirty-five thousand dollars (\$35,000) for the 1987-88 fiscal year and the sum of thirty-five thousand dollars (\$35,000) for the 1988-89 fiscal year, to allow the Center to continue its home remedies community based alternatives program for undisciplined juveniles and their families.

Sec. 3. There is appropriated from the General Fund to the Youth and Family Counselling Service the sum of forty-five thousand dollars (\$45,000) for the

1 1987-88 fiscal year and the sum of forty-five thousand dollars (\$45,000) for the 1988-  
2 89 fiscal year, to allow the Service to continue the Grimes Alternative Program, a  
3 community based alternatives program for undisciplined juveniles, in the Lexington  
4 City Schools.

5           Sec. 4. There is appropriated from the General Fund to the  
6 Administrative Office of the Courts the sum of seventy-five thousand dollars  
7 (\$75,000) for the 1987-88 fiscal year for an independent study and evaluation of the  
8 intensive supervision program established by Section 1 of this act, of the Bringing It  
9 All Back Home Study Center program continued by Section 2 of this act, and of the  
10 Grimes Alternative Program continued by Section 3 of this act. The Administrative  
11 Office of the Courts may contract for this independent study. The results of this  
12 study and evaluation shall be presented to the General Assembly by February 1,  
13 1989.

14           Sec. 5. This act shall become effective July 1, 1987.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1987**

**S**

**1**

**SENATE BILL 367**

**Short Title: Juvenile Code Revision.**

**(Public)**

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**Sponsors: Senators Marvin; Barnes, Basnight, Conder, Harrington, Kaplan,  
Martin of Pitt, Parnell, Plyler, Tally, Walker, Ward.**

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**Referred to: Children and Youth.**

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**April 10, 1987**

**A BILL TO BE ENTITLED**

**1 AN ACT TO STRENGTHEN THE STANDARDS REGARDING REMOVAL OF  
2 CHILDREN FROM THEIR HOMES AND TO MAKE OTHER CHANGES IN  
3 THE JUVENILE CODE.**

**4 The General Assembly of North Carolina enacts:**

**5 Section 1. G.S. 7A-516 is amended as follows:**

**6 (1) by deleting the word "Article" and substituting the word  
7 "Subchapter";**

**8 (2) by deleting in subdivision (2) the word "and" following the  
9 semicolon;**

**10 (3) by deleting in subdivision (3) the period and substituting a semicolon;**

**11 (4) by adding two new subdivisions at the end to read:**

**12 "(4) To provide for services for the protection of juveniles by means that respect  
13 both the right to family autonomy and juveniles' needs for safety, continuity, and  
14 permanence; and**

**15 (5) To provide standards for the removal, when necessary, of juveniles from their  
16 homes and for the return of juveniles to their homes consistent with preventing the  
17 unnecessary or inappropriate separation of juveniles from their parents."**

**18 Sec. 2. G.S. 7A-517 is amended as follows:**



1 (1) by inserting in the second sentence in sub-subdivision (1)d. between  
2 the word "withdrawal" and the words "or aggressive behavior" the phrase "  
3 nonorganic failure to thrive,";

4 (2) by adding a new subdivision (15.1) to read:

5 "(15.1) Endangered Juvenile. A juvenile who is abused, neglected, or dependent,  
6 and:

7 a. Has suffered, or is at risk of suffering, a physical harm inflicted  
8 nonaccidentally by the juvenile's parent, guardian, custodian, or  
9 caretaker, that causes or creates a risk of causing disfigurement,  
10 impairment of bodily functioning, or other serious physical injury;  
11 or

12 b. Has suffered, or is at risk of suffering, physical harm causing  
13 disfigurement, impairment of bodily functioning or other serious  
14 physical injury as a result of conditions created by the failure or  
15 inability of the parent, guardian, custodian, or caretaker to  
16 supervise adequately, care for, or protect the juvenile; or

17 c. Is suffering serious emotional damage caused or allowed by the  
18 juvenile's parent, guardian, custodian, or caretaker who is unable  
19 or unwilling to authorize, provide, or appropriately participate in  
20 needed treatment; or

21 d. Has been abandoned; or

22 e. Has suffered, or is at risk of suffering, sexual abuse in that the  
23 juvenile's parent, guardian, custodian, or caretaker has committed,  
24 permitted, or encouraged the commission by, with, or upon the  
25 juvenile of:

26 1. vaginal intercourse, or any sexual act, or the obscene or  
27 pornographic photographing or filming or depicting of the  
28 juvenile in those acts for commercial or noncommercial  
29 usage; or

30 2. any of the following offenses against public morality and  
31 decency: crime against nature, as provided in G.S. 14-177;  
32 incest, as provided in G.S. 14-178 or 179; offenses involving  
33 obscenity, as provided in G.S. 14-190.1 through 190.8;  
34 indecent exposure, as provided in G.S. 14-190.9; offenses  
35 involving harmful materials or performances, as provided in



G.S. 14-190.13 through 190.15; sexual exploitation of a minor, as provided in G.S. 14-190.16 or 190.17; promoting or participating in prostitution with a minor, as provided in G.S. 14-190.18 or 190.19; taking indecent liberties with children, as provided in G.S. 14-202.1; or

3. any act of prostitution; or

f. Needs medical treatment to cure, alleviate, or prevent serious physical harm that may result in death, disfigurement, or impairment of bodily functions, and the juvenile's parent, guardian, custodian, or caretaker is unwilling or unable to provide or consent to the treatment; or

g. Is in need of placement because his parent, guardian, custodian, or caretaker has consistently not provided or has been unable to provide adequate care, or adequate supervision, or appropriate discipline, with serious harmful consequences to the well-being of the juvenile; provided, however, that the question of whether care, supervision, or discipline has been consistent shall be judged with regard for the child's age; or

h. Is committing delinquent or criminal acts as a result of the encouragement, guidance, indifference, or approval of the juvenile's parent, guardian, custodian, or caretaker."

(3) by rewriting subdivision (21) to read:

"(21) Neglected Juvenile. A juvenile who:

a. Does not receive adequate care, or adequate supervision, or appropriate discipline from his parent, guardian, custodian, or caretaker; or

b. Has been abandoned; or

c. Is not provided necessary medical care or other remedial care recognized under State law; or

d. Has been placed for care or adoption in violation of law; or

e. Is committing delinquent or criminal acts as a result of the encouragement, guidance, indifference, or approval of the juvenile's parent, guardian, custodian, or caretaker; or

f. Is committing undisciplined acts as a result of the encouragement, guidance, indifference, or approval of the juvenile's parent, guardian, custodian, or caretaker; or

g. Is at substantial risk of suffering serious emotional damage and the juvenile's parent, guardian, custodian, or caretaker is unwilling to authorize, provide, or appropriately participate in needed treatment."

Sec. 3. G.S. 7A-523 is amended as follows:

(1) by inserting in the second sentence in subsection (a) between the word "of" and the word "abuse" the word "criminal";

(2) by deleting the period and substituting a semicolon in subdivision (6) in subsection (a);

(3) by adding two new subdivisions at the end to read:

"(7) Proceedings to review the placement of juveniles in the custody of a county department of social services or a licensed child-placing agency, when the placement results from any of the following:

a. Termination of one or both parents' rights; or

b. Relinquishment by one or both parents of the child for adoption; or

c. The dismissal of an adoption proceeding; or

d. A voluntary foster care placement agreement between the juvenile's parent, guardian, custodian, or caretaker and a county department of social services;

(8) Proceedings in which a person is alleged to have obstructed, interfered with, or refused to allow or cooperate in an investigation required by G.S. 7A-544."

Sec. 4. G.S. 7A-542 is amended in the first paragraph by adding a new sentence at the end to read:

"The Director in each county of the State, as agent of the county and State, shall also use reasonable efforts to establish services designed to prevent the unnecessary removal of juveniles from their own homes and reunification services designed to facilitate a juvenile's early return to his own home when placement outside the home is necessary."

Sec. 5. G.S. 7A-544 is amended as follows:

(1) by inserting in the fourth sentence in the first paragraph between the word "resides" and the period the words "and personal contact with the juvenile";

(2) by deleting in the third sentence in the second paragraph the word "complaint" and substituting the word "petition";

(3) by rewriting the first sentence of the third paragraph to read:

1 "If the Director considers removal necessary for the protection of a juvenile, he  
2 shall sign a petition alleging abuse, neglect, or dependency and specifying the  
3 applicable facts to invoke the jurisdiction of the court.":

4 (4) by adding a new paragraph at the end to read:

5 "Nothing in this section prevents the provision of services to any family on a  
6 voluntary basis."

7 Sec. 6. Chapter 7A of the General Statutes is amended by adding a new  
8 section to read:

9 **"§ 7A-544.1. Interference with investigation.--**(a) If a juvenile's parent, guardian,  
10 custodian, or caretaker, or any other person, obstructs or interferes with, or refuses to  
11 allow or cooperate in, an investigation required by G.S. 7A-544, the Director may file  
12 a petition alleging the applicable facts and requesting an order directing the named  
13 respondent to cooperate in the investigation or to take specific action the court finds  
14 necessary to allow the Director to carry out his duty to investigate. The petition shall  
15 be titled in the name of the juvenile who is the subject of the investigation and shall  
16 name as respondent the person alleged to be obstructing, interfering with, or refusing  
17 to allow or cooperate in the investigation. Upon filing of the petition, the clerk shall  
18 schedule a hearing to be held within 10 days. Service of the petition and summons  
19 and notice of hearing shall be made on the respondent as provided by the Rules of  
20 Civil Procedure. If at the hearing on the petition the court finds by a preponderance  
21 of the evidence that the respondent, without lawful excuse, has obstructed or  
22 interfered with, or refused to allow or cooperate in an investigation required by G.S.  
23 7A-544, the court may order the respondent to cease any action or to perform any  
24 action as the court finds necessary to enable the Director to carry out his duty to  
25 investigate.

26 (b) Upon motion of the Director and a finding of good cause, the court may enter  
27 any temporary **ex parte** orders it considers necessary to enable the Director to  
28 conduct an investigation sufficient to determine whether a juvenile is in need of  
29 immediate protection or assistance. Within 10 days after the entry of an **ex parte**  
30 order under this subsection, a hearing shall be held to determine whether there is  
31 good cause for the continuation of the order or the entry of a different order. An  
32 order entered under this subsection shall be served on the respondent along with a  
33 copy of the petition, summons, and notice of hearing.

34 (c) An order entered pursuant to this section is enforceable by civil or criminal  
35 contempt."



1           Sec. 7. G.S. 7A-558(b) is amended in the second sentence by deleting the  
2 words "of the juvenile" and substituting the words "of any party".

3           Sec. 8. G.S. 7A-562 is amended as follows:

4           (1) by deleting the period at the end of subdivision (2) of subsection (b)  
5 and substituting ", or";

6           (2) by adding a new subdivision at the end of subsection (b) to read:

7       "(3) When the Director of the Department of Social Services requests a petition  
8 alleging the obstruction of, interference with, or refusal to allow or cooperate in, an  
9 investigation required by G.S. 7A-544.1";

10          (3) by inserting in the first sentence of subsection (c) between the word  
11 "order" and the period the words "or a temporary order under G.S. 7A-544.1".

12          Sec. 9. G.S. 7A-564 is rewritten to read:

13       "**§ 7A-564. Issuance of summons.**--(a) Immediately after a petition has been filed  
14 alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent,  
15 the clerk shall issue a summons to the juvenile, to the parent, and to the guardian,  
16 custodian, or caretaker, requiring them to appear for a hearing at the time and place  
17 stated in the summons. A copy of the petition shall be attached to each summons.

18       (b) A summons, on a printed form supplied by the Administrative Office of the  
19 Courts, shall be directed to the person summoned to appear and shall include notice  
20 of any right to counsel prior to any hearing and notice of the nature of the  
21 proceeding.

22       (c) The summons shall be delivered by any law enforcement officer having  
23 authority and territorial jurisdiction to execute the process."

24          Sec. 10. G.S. 7A-571(3) is amended by adding a new sentence at the end  
25 to read:

26       "When the need for temporary custody appears to be created solely by the  
27 juvenile's being left unattended, a law enforcement officer or Department of Social  
28 Services worker may provide an emergency caretaker to attend the juvenile at his  
29 home until the parent, guardian, custodian, or caretaker returns, or until it appears  
30 that the parent, guardian, custodian, or caretaker does not intend to return home."

31          Sec. 11. G.S. 7A-574(a) is amended by adding immediately before the  
32 last sentence a new sentence to read:

33       "A juvenile alleged to be abused, neglected, or dependent shall be placed in  
34 nonsecure custody only when it appears that there are no reasonable means, other  
35 than an order for nonsecure custody, available to protect the juvenile."

36          Sec. 12. G.S. 7A-577 is amended by adding a new subsection to read:

1    "(h) Any order authorizing the continued nonsecure custody of a juvenile who is  
2    alleged to be abused, neglected, or dependent shall include findings as to whether  
3    reasonable efforts have been made to prevent or eliminate the need for placement of  
4    the juvenile and may provide for services or other efforts aimed at returning the  
5    juvenile home promptly. A finding that reasonable efforts were not made shall not  
6    preclude the entry of an order authorizing continued nonsecure custody when the  
7    court finds that continued custody is necessary for the protection of the juvenile.  
8    Where efforts to prevent the need for the juvenile's placement were precluded by an  
9    immediate threat of harm to the juvenile, the court may find that the absence of such  
10   efforts was reasonable."

11           Sec. 13. G.S. 7A-586 is amended as follows:

12           (1) by deleting in the first sentence in the first paragraph the words "or  
13   neglected" and substituting the phrase ", neglected, or dependent";

14           (2) by deleting the last sentence in the first paragraph.

15           Sec. 14. G.S. 7A-588 is amended as follows:

16           (1) by inserting in the first sentence between the word "indigency" and  
17   the period the words "or by direct engagement for specialized guardian **ad litem**  
18   services through the Administrative Office of the Courts";

19           (2) by rewriting the third sentence to read:

20    "In no event shall the parent or guardian be required to pay the fees for an  
21   attorney or guardian **ad litem** in an abuse, neglect, or dependency proceeding unless  
22   the juvenile has been adjudicated to be abused, neglected, or dependent."

23           Sec. 15. G.S. 7A-632 is rewritten to read:

24    "**§ 7A-632. Continuances.**--The judge may, for good cause, continue the hearing  
25   for as long as is required to receive additional evidence, reports, or assessments that  
26   the court has requested, or other information needed in the best interest of the  
27   juvenile. Otherwise, continuances shall be granted only in extraordinary  
28   circumstances when necessary for the proper administration of justice or in the best  
29   interest of the juvenile."

30           Sec. 16. G.S. 7A-640 is amended by inserting a new sentence between  
31   the first and second sentences to read:

32    "Findings of fact made in previous orders may be considered by the court."

33           Sec. 17. G.S. 7A-647(2) is rewritten to read:

34    "(2) In the case of a juvenile who has legal residence outside the State, the judge  
35   may place him in the physical custody of the Department of Social Services where he

1 is found so that the agency may return the juvenile to the responsible authorities in  
2 his home state."

3           Sec. 18. Chapter 7A of the General Statutes is amended by adding two  
4 new sections to read:

5   **"§ 7A-647.1. Dispositional alternatives for abused, neglected, or dependent**  
6 **juvenile.--**(a) In the case of an abused, neglected, or dependent juvenile, the judge  
7 may require that he be supervised in his own home by the Department of Social  
8 Services or by other personnel available to the court, subject to conditions applicable  
9 to the parent, guardian, custodian, caretaker, or juvenile as the judge may specify; or  
10 place him in the custody of a parent; or both.

11   (b) In the case of an abused, neglected, or dependent juvenile who is also  
12 endangered, the court may place him in the custody of a relative, private agency  
13 offering placement services, some other suitable person, or the Department of Social  
14 Services in the county of his residence; provided, the court shall first find by clear  
15 and convincing evidence both that the juvenile is endangered and that removal of  
16 custody from the parent, guardian, custodian, or caretaker is in the best interest of the  
17 juvenile. The order of the court shall include findings as to whether reasonable  
18 efforts were made to prevent or eliminate the need for removal of the juvenile from  
19 the home and may include provisions for services to be provided, or other efforts to  
20 be made, to facilitate the juvenile's early return home.

21   (c) When the juvenile is removed from the custody of the parent, guardian,  
22 custodian, or caretaker because of endangerment, the juvenile may not be returned to  
23 the home except by order of the court or pursuant to a provision in a plan required  
24 by G.S. 7A-647.2(a). Any party may apply to the court at any time for an order  
25 authorizing the juvenile's return home.

26   **"§ 7A-647.2. Juvenile placed in custody of Department of Social Services.--**(a) In  
27 the case of any juvenile who is placed by the court in the custody of the Department  
28 of Social Services, the Department shall prepare a specific, written plan which shall  
29 include the following:

30           (1) Where the juvenile is or will be placed; provided, the Department  
31           may omit information that identifies a particular home, institution,  
32           or caretaker if there is reason to believe that including this  
33           information would be detrimental to the juvenile;

34           (2) Steps that will be taken to return the juvenile home, including:



- 1           a.     Services the parent, guardian, custodian, or caretaker will  
2                 receive or be offered in order to enable him to resume  
3                 custody; and
- 4           b.     Actions the parent, guardian, custodian, or caretaker is  
5                 expected to take in order to resume custody;
- 6       (3)    Actions the Department will take to maintain ties between the  
7                 juvenile and his parent, guardian, custodian, or caretaker,  
8                 including provision for the maximum possible contact unless the  
9                 court has found that visitation should be limited because it would  
10                be seriously detrimental to the juvenile; and
- 11       (4)    The Department's plan for assuring that the juvenile receives  
12                 proper care: that services are being provided to the parent,  
13                 juvenile, and foster parent to improve conditions in the parent's  
14                 home to facilitate the juvenile's return home or the juvenile's  
15                 permanent placement; and that the juvenile's needs are being met  
16                 while in foster care or other placement.
- 17 Whenever possible, the plan shall be developed in consultation with the parent,  
18 guardian, custodian, or caretaker and the guardian **ad litem**. The written plan shall  
19 not be presented to the court before the adjudication. The plan shall be presented to  
20 or filed with the court within 30 days from the juvenile's actual removal or placement  
21 unless the adjudication has not occurred within that time, in which case it shall be  
22 presented immediately following the adjudication. If the plan is not presented at or  
23 before the dispositional hearing, no separate hearing need be scheduled to consider  
24 the plan unless such a hearing is requested by a party or scheduled by the court on its  
25 own motion.
- 26   (b) In any case in which custody or physical custody of a juvenile is placed with  
27 the Department of Social Services under authority of this or any other Chapter of the  
28 General Statutes, unless otherwise ordered by the court, the Director of the  
29 Department may arrange for, provide, or consent to needed routine or emergency  
30 medical or surgical care or treatment and psychological, psychiatric, educational, or  
31 other remedial evaluations or treatment. Unless otherwise ordered by the court, the  
32 parent or guardian shall retain the authority to give or deny consent for elective or  
33 cosmetic surgery, for nonroutine or nonemergency medical care, for the juvenile to  
34 marry, and for the juvenile to join the armed services; provided, if the parent or  
35 guardian cannot be found after due and diligent search, or if the court finds that the



1 parent's or guardian's refusal to consent would be seriously detrimental to the  
2 juvenile, consent may be given by the court."

3 Sec. 19. G.S. 7A-648 is amended as follows:

4 (1) by designating all the present language as subsection (a);

5 (2) by deleting in subdivision (3) the period and substituting a semicolon;

6 (3) by adding three new subdivisions at the end of subsection (a) to read:

7 "(4) Require that he be supervised in his own home by a court counselor or other  
8 personnel available to the court, subject to conditions applicable to the parent or the  
9 juvenile or both as the judge specifies;

10 (5) If the juvenile needs more adequate care or supervision, or needs placement,  
11 place him in the custody of a parent, relative, private agency offering placement  
12 services, or some other suitable person; or

13 (6) If the court finds that the juvenile needs placement because he is not receiving  
14 adequate care, adequate supervision, or appropriate discipline, place him in the  
15 custody of the Department of Social Services in the county of his residence; provided,  
16 for a nonemergency placement, if the Director of the Department of Social Services  
17 is not already a party to the proceeding, the court shall issue an order and notice,  
18 before placing the juvenile in the Department's custody, making the Director a party  
19 and giving him or his designee an opportunity to be heard regarding the disposition.  
20 If the juvenile is placed in the Department's custody because of an emergency, the  
21 Director shall be notified of his right to a hearing regarding the disposition within 10  
22 days. The provisions of G.S. 7A-647.2 apply to the case of a juvenile who is placed  
23 in the Department's custody under this subdivision.";

24 (4) by adding two new subsections at the end to read:

25 "(b) Any order under this section removing custody of a juvenile from the parent,  
26 guardian, custodian, or caretaker shall include findings as to whether reasonable  
27 efforts were made to prevent or eliminate the need for removal of the juvenile from  
28 the home and may include provisions for services to be provided, or other efforts to  
29 be made, to facilitate the juvenile's early return home.

30 (c) When custody of the juvenile is removed from the parent, guardian, custodian,  
31 or caretaker pursuant to this section, the juvenile may not be returned to the home  
32 except by order of the court or pursuant to a provision in a plan required by G.S.  
33 7A-647.2(a). Any party may apply to the court at any time for an order authorizing  
34 the juvenile's return home."

35 Sec. 20. G.S. 7A-651 is amended as follows:

36 (1) by designating all the present language as subsection (a):

(2) by adding two new subsections at the end to read:

"(b) In the dispositional order for any juvenile who is removed from the custody of the parent, guardian, custodian, or caretaker, the court shall set the date and time for the review hearing required by G.S. 7A-657 to be held within six months of the date the initial placement order was entered.

(c) No order shall provide for a juvenile to be placed in the custody of a county department of social services for placement in a licensed foster home or foster care facility, unless the order also contains the following:

(1) A finding that the juvenile's continuation in or return to his own home would be contrary to the juvenile's best interest; and

(2) Findings as to whether reasonable efforts have been made to prevent or eliminate the need for placement of the juvenile. The order may provide for services or other efforts aimed at returning the juvenile home promptly. A finding that reasonable efforts were not made shall not preclude entry of a dispositional order authorizing removal of custody when the court finds that removal is needed for protection of the juvenile. When efforts to prevent the need for the juvenile's placement are precluded by the immediate threat of harm to the juvenile, the court may find that an absence of such efforts was reasonable."

Sec. 21. G.S. 7A-657 is rewritten to read:

"§ 7A-657. **Review of custody order.**--(a) In any case in which the juvenile is removed from the custody of the parent, guardian, or custodian, or caretaker, the court shall conduct a review within six months of the date the juvenile was removed and shall conduct subsequent reviews every six months thereafter unless the juvenile has been returned home. In the case of a juvenile who is placed with, or is in the custody of, a relative, the court may waive the holding of review hearings, require written reports to the court in lieu of review hearings, or order that review hearings be held less often than every six months, if the court finds by clear and convincing evidence that:

(1) The juvenile has been placed with the relative for a continuous period of at least one year; and

(2) The placement is stable and continuation of the placement is in the best interest of the juvenile; and

(3) Neither the best interests of the juvenile nor the rights of any party require that review hearings be held every six months; and

(4) All parties are aware that the matter may be brought before the court for review at any time by the filing of a motion for review, or on the court's own motion.

The court may not waive or refuse to conduct a review hearing if a motion seeking the review is filed by a party. The clerk shall give 15 days' notice of the review to the parent, or the person standing **in loco parentis**, the juvenile if 12 years of age or more, the guardian, foster parent, custodian, caretaker, or agency with custody, the guardian **ad litem**, and any other person the court specifies.

(b) The court shall consider information from the Department of Social Services, the juvenile court counselor, the custodian, guardian, caretaker, parent or person standing **in loco parentis**, foster parent, guardian **ad litem**, the juvenile, and any public or private agency that will aid in the review.

At every review hearing when the juvenile is not returned home, the court shall consider and establish on the record the following:

- (1) Whether continued placement is in the juvenile's best interest;
- (2) Services that have been offered to the juvenile and his family, and whether reasonable efforts have been made to eliminate the need for placement;
- (3) The extent of compliance with any case plan or any prior order of the court;
- (4) The progress that has been made towards alleviating or mitigating the causes of the juvenile's placement, and the nature of further progress that would enable the juvenile to be returned home;
- (5) The goals and appropriateness of the juvenile's placement and of the foster care or other plan that addresses the role that the current foster parents or custodians will play in planning for the juvenile;
- (6) If the juvenile's return home is unlikely, efforts that have been or should be made to evaluate or plan for other methods of care, including when and if termination of parental rights should be considered; and
- (7) Any other matter the court considers necessary.

(c) In the case of an abused, neglected, or dependent juvenile who was removed by court order from the custody of the parent, guardian, custodian, or caretaker:

- (1) At the first, second, or any subsequent six-month review hearing, the court shall order that the juvenile be returned to the home of



1 the parent, guardian, custodian, or caretaker if the court finds by a  
2 preponderance of the evidence that it is in the juvenile's best  
3 interest that he be returned home and that the juvenile, if returned  
4 home, is not likely to be endangered.

5 (2) At the end of the second or of any subsequent review hearing, if  
6 the juvenile is not returned home and a petition for termination of  
7 parental rights has not been filed, the court shall direct the  
8 guardian **ad litem** and the petitioner to show why consideration of  
9 termination of parental rights is not in the juvenile's best interest,  
10 and shall schedule a hearing to be held for that purpose within 90  
11 days. The hearing is not required if, within 90 days either:

- 12 a. A petition for termination of parental rights is filed; or  
13 b. All parties, including the guardian **ad litem** and the  
14 Department of Social Services, who have appeared in the  
15 action agree and indicate in writing to the court that  
16 consideration of termination of parental rights is not in the  
17 juvenile's best interest; provided, it is not necessary for the  
18 juvenile's parent to sign this written agreement.

19 At the 90-day hearing, the guardian **ad litem** and the petitioner shall show the court  
20 why termination of parental rights is not in the juvenile's best interest, or, if both the  
21 guardian **ad litem** and the petitioner indicate that consideration of termination is in  
22 the juvenile's best interest, why a petition has not been filed. If the judge finds that  
23 the consideration of termination of parental rights is in the juvenile's best interest, he  
24 shall order the guardian **ad litem** or the petitioner to file a petition pursuant to  
25 Article 24B of this Chapter within 15 days. If the court orders that a petition for  
26 termination of parental rights be filed, the Department of Social Services shall begin  
27 preparing a permanent plan for the juvenile for adoptive placement. When a 90-day  
28 hearing is held, the next review hearing shall be scheduled six months from the date  
29 of that hearing.

30 (d) When a juvenile is returned to the custody of his parent, guardian, custodian,  
31 or caretaker, after having been removed from that home by court order, the court  
32 may order that protective supervision continue for a period of six months, after which  
33 time the court shall hold a review hearing to determine whether there is a need for  
34 continued supervision or intervention.

1 (e) At the end of every review hearing, the judge, after making findings of fact,  
2 shall enter an order continuing the placement under review, providing for a different  
3 placement, or making other provisions or dispositions authorized or required by this  
4 Article, as the judge finds to be in the best interest of the juvenile. If custody is not  
5 returned to the parent, guardian, custodian, or caretaker, the court in the order shall  
6 set the date and time for the next review hearing to be held within six months. If  
7 custody is restored to a parent, guardian, custodian, or caretaker, or if an order for  
8 protective supervision is entered or continued, the court is relieved of the duty to  
9 conduct periodic review hearings except as required by subsection (d) of this section.

10 (f) At the end of every review hearing the judge, after making findings of fact,  
11 shall enter an order continuing the placement under review, providing for a different  
12 placement, or making other provisions or dispositions authorized or required by this  
13 Article, as the judge finds to be in the juvenile's best interests. Any dispositional  
14 alternative that would be available to the judge at a dispositional hearing shall also be  
15 available at a review hearing. An action pursuant to Chapter 50 of the General  
16 Statutes need not be commenced in order for the court to change custody of a  
17 juvenile at any review hearing."

18 Sec. 22. G.S. 7A-289.22 is amended by adding a new subdivision (5) to  
19 read:

20 "(5) The goal of termination of parental rights is adoptive placement."

21 Sec. 23. G.S. 7A-289.24(6) is amended by deleting the words "one  
22 continuous year" and by substituting the words "six months".

23 Sec. 24. G.S. 7A-289.28 is rewritten to read:

24 "**§ 7A-289.28. Failure of respondents to answer.**--Upon the failure of the  
25 respondents to file written answer to the petition with the court within 30 days after  
26 service of the summons and petition, or within the time period established for a  
27 defendant's reply by G.S. 1A-1, Rule 4, if service is by publication, the clerk shall  
28 schedule an adjudicatory hearing on the petition and shall give written notice of the  
29 hearing to the petitioner and to any respondent who was served other than by  
30 publication or who has filed an answer or other pleading."

31 Sec. 25. G.S. 7A-289.30 is amended as follows:

32 (1) by inserting in subsection (a) in the first sentence between the word  
33 "jury" and the period the words "and shall be held within 90 days of the service of  
34 the petition unless the court finds good cause for delay";

35 (2) by adding in subsection (c) a new sentence at the end to read:

1 "Otherwise, continuances shall be granted only in extraordinary circumstances and  
2 when necessary for the proper administration of justice or in the best interest of the  
3 juvenile.";

4 (3) by deleting in subsection (e) the word "All" and substituting the  
5 phrase "The burden of proof shall be on the petitioner, and all";

6 (4) by adding a new subsection at the end to read:

7 "(f) Immediately after an adjudication that a ground for termination of parental  
8 rights exists in any proceeding brought by a petitioner authorized in G.S. 7A-  
9 289.24(3), (4), or (6), or in a proceeding brought by a petitioner authorized in G.S.  
10 7A-289.24(2) or (5) if the court so orders, the Department of Social Services or other  
11 responsible agency shall present the court with a written plan for providing a  
12 permanent home for the child. This written plan may not disclose any identifying  
13 information about any prospective adoptive parent."

14 Sec. 26. G.S. 7A-289.31 is amended by rewriting the first three  
15 subsections to read:

16 "(a) If the court finds that a ground for termination of a parent's rights, as  
17 described in G.S. 7A-289.32, exists, and further finds by clear, cogent, and convincing  
18 evidence that termination of parental rights is in the best interest of the child, the  
19 court shall issue an order terminating the rights of the parent with respect to the  
20 child. The burden of proof is on the petitioner. In determining the best interest of  
21 the child, the court shall consider the following:

- 22 (1) The child's need for a permanent, legally secure home;
- 23 (2) Whether the parent has provided for the emotional and  
24 psychological needs of the child;
- 25 (3) Whether termination of parental rights is likely to lead to a  
26 permanent placement for the child, or to strengthen the child's  
27 present placement;
- 28 (4) The nature of the child's relationship with the parent and siblings  
29 and the effect of termination on those and other important  
30 relationships;
- 31 (5) The preferences of the child, depending on the maturity and  
32 firmness of the child's judgment; and
- 33 (6) Any other factor the court considers relevant, just, and proper.

34 (b) If the court concludes that, irrespective of the existence of one or more  
35 grounds for the termination of parental rights, the court is unable to find by clear,



1 cogent, and convincing evidence that termination is in the best interest of the child.  
2 the court shall dismiss the petition after setting forth the facts and conclusions upon  
3 which the dismissal is based.

4 (c) If the court determines that circumstances authorizing termination of parental  
5 rights do not exist, the court shall dismiss the petition after making appropriate  
6 findings of fact and conclusions."

7 Sec. 27. G.S. 7A-289.32 is amended as follows:

8 (1) by rewriting the words preceding the colon to read:

9 "The following are the exclusive grounds for terminating parental rights under this  
10 Article";

11 (2) by rewriting subdivision (2) to read:

12 "(2) The parent has endangered the child. The child shall be deemed to be  
13 endangered if the court finds the child to be an endangered juvenile within the  
14 meaning of G.S. 7A-517(15.1).";

15 (3) by adding a new subdivision at the end to read:

16 "(9) The child was found to be endangered and was removed from the custody of  
17 the parent pursuant to G.S. 7A-647.1(b); the child has been placed outside his home  
18 for more than one year; and the court has determined at the second or any  
19 subsequent review hearing required by G.S. 7A-657 that it was not in the child's best  
20 interest to be returned to the custody of the parent."

21 Sec. 28. G.S. 7A-289.34 is amended as follows:

22 (1) by deleting in the third sentence the words "its original order of  
23 adjudication or disposition" and substituting the words "order regarding custody or  
24 placement of the child";

25 (2) by adding a new sentence at the end to read:

26 "A parent whose rights have been terminated by an order that has been affirmed  
27 on appeal shall not be considered an interested, necessary, or proper party in regard  
28 to the modifying order and does not have standing to seek the modifying order."

29 Sec. 29. G.S. 7A-491 is amended by rewriting the first sentence to read:

30 "If a conflict of interest prohibits a local district program from providing  
31 representation to an abused, neglected, or dependent juvenile, the court may appoint  
32 any member of the district bar to represent the juvenile."

33 Sec. 30. G.S. 51-2(a)(4) is amended by adding the following new  
34 sentence at the end to read:

1 "Provided, in the case of a juvenile who is placed in the custody of a county  
2 department of social services, a parent or guardian who was authorized by this  
3 section to consent to the juvenile's marriage at the time of the juvenile's placement  
4 shall retain the authority to give or deny consent for the juvenile to marry unless  
5 otherwise ordered by the court pursuant to G.S. 7A-647.2."

6           Sec. 31. This act shall become effective January 1, 1988, and applies to  
7 all petitions filed on or after that date and to all review hearings held on or after that  
8 date.

APPENDIX D

Juvenile Law Study Commission Agendas: 1987-1988.

AGENDA

Juvenile Law Study Commission  
Monday, March 2, 1987  
Room 3106T, Department of Administration Building  
10:00 a.m.

1. Approval of the minutes.
2. Introduction of new members.
3. Discussion of Travel Reimbursement Forms.
4. Orientation:  
Mason Thomas, Institute of Government  
Representative Anne Barnes, Member and former Chair.
5. Update on Legislative Proposals and Recommendations;
  - (1) Juvenile Transportation Program
  - (2) Training School Admission Criteria
  - (3) Secure Custody Change
  - (4) Short Term Juvenile Commitments
  - (5) Definite Terms for Certain Juveniles
  - (6) Chronic Status Offender
  - (7) Juvenile Detention Clarification.
6. House Bill 29 - Raise Compulsory Education Age.
7. Schedule of future Commission meeting dates.
8. Other.

AGENDA

JUVENILE LAW STUDY COMMISSION

Monday, April 13, 1987

Advisory Budget Commission Meeting Room - 5034

Department of Administration Building

10:00 a.m.

1. Approval of the minutes.
2. Update on Legislative Proposals and Recommendations:
  1. HB - 188 Juvenile Detention Clarification
  2. HB - 187 Secure Custody Change
  3. HB - 186 Short Term Commitments.
3. Governor's Crime Commission - Juvenile Justice Committee Formal Recommendations For The Chronic Status Offender Legislation:

Mr. Robert Wesley, Jr. - Chair of the Juvenile Justice Committee  
Ms. Vicky Church, Juvenile Justice Coordinator .
4. Review of New Legislation:
  1. HB - 397 Defendant Pay/Treatment of Child \*\*
  2. HB - 352 Records for Research
  3. HB - 351 Juvenile Information Sharing
  4. HB - 279 Prohibit Minors From Appearing Topless
  5. SB - 232 Privacy/Child Witness
  6. SB - 188 No Pass/No Drive
  7. SB - 184 Drop-out Referral System
  8. SB - 135 Grand Jury/Children Exploited
  9. SB - 81 Dropouts Ineligible for Drivers Licenses
  10. SB - 38 Child Witness Hearing Expedited
  11. SB - 37 Expedite Trials W/Child Witness.
5. Other

\*\* Identical in effect to SB 99

AGENDA

Juvenile Law Study Commission

Monday, May 4, 1987; 11:00 a.m.

Advisory Budget Commission Room

Department of Administration Building

1. Approval of the minutes.

2. Update on Legislative Proposals and Recommendations:

1. HB - 188 Juvenile Detention Clarification
2. HB - 187 Secure Custody Change
3. HB - 186 Short Term Commitments
4. HB - 930 Juvenile Transportation Program\*\*

3. New Legislation:

1. HB - 839 Privacy/Child Witness.
2. HB - 837 Home Instruction/Compulsory Educ.
3. HB - 826 Clarify Domestic Violence.
4. HB - 787 DYS Teachers Training.
5. HB - 786 Juvenile Records.
6. HB - 673 Grand Jury/Child Abuse.
7. HB - 639 Custody Review Waivers.
8. HB - 638 Protective Services Investigation.
9. HB - 637 Abused Juvenile Change.
10. HB - 636 Adoption/Term. of Parental Rights.
11. HB - 558 Admission and Commitment Transp.
12. HB - 551 Minors' Admission Law.
13. HB - 541 No Death Penalty for Youths.
14. SB - 614 Child Pornography/Forfeit Assets.
15. SB - 602 Certification of Child Placement.
16. SB - 599 Juveniles - Implied Consent Law.
17. SB - 526 Felony Child Abuse Change.
18. SB - 521 Protective Services Specified.
19. SB - 367 Juvenile Code Revision.

4. Other.

\*\*This bill is part of the Commission's 1987 Recommendations to the General Assoc



AGENDA

Juvenile Law Study Commission

Monday, June 1, 1987; 10:00 a.m.

Commission Meeting Room

Personnel Development Center

1. Approval of the minutes.
2. Update on Legislative Proposals and Recommendations.
3. Juvenile Code Revision (SB 367) Presentation:  
    Mr. Andy Little, Attorney for the Orange County Department of  
    Social Services.
4. New Legislation:
  1. HB - 1249 "Undisciplined" Age Raised.
  2. HB - 1221 Parent Responsibility-Unruly Students.
  3. HB - 1220 Church Schools/Corporal Punishment.
  4. HB - 1113 Abuse Victim's Identity Protected.
  5. HB - 1068 Consent for Minor's Abortion.
  6. HB - 1056 Raise Compulsory Educ. Age.
  7. HB - 1023 Psychologist Report Child Abuse.
  8. SB - 808 Minors Can't Use Tobacco Products.
  9. SB - 787 Children and Youth Comm.
  10. SB - 779 Home Schools/Compulsory Ed.
  11. SB - 708 Home Schools Regulated.
5. Other.

**AGENDA**

**Juvenile Law Study Commission**

**State Auditor's Conference Room  
Legislative Office Building  
October 16, 1987 at 10:00 a.m.**

- I. Welcome and Opening Remarks**
- II. Approval of Minutes**
- III. Housekeeping Items**
  - (1) Calendar**
  - (2) Place of Meeting**
  - (3) Staffing**
  - (4) Budget**
- IV. Review of 1987 Session**
- V. Issues for Consideration**
  - (1) Transportation Bill**
  - (2) Chronic Status Offender**
  - (3) Juvenile Revision Bill (Endangered Child)**
  - (4) Age**
  - (5) Family Court**
  - (6) Representative from G.A.L. as Member**
  - (7) Other**

AGENDA

Juvenile Law Study Commission  
Friday, January 15, 1988, 9:00 a.m.  
Grand Jury Room, Guilford County Court House  
Greensboro, NC

1. Welcome and Refreshments.
2. Approval of the Minutes.
3. Marilyn Stevens, Program Analyst for the Guardian Ad Litem Program.
4. Gwyndolyn Chunn,
  - a. Update on the Juvenile Transportation Bill and the Division of Youth Services response.
  - b. Report on Short Term Juvenile Commitments.
5. Mason Thomas, Draft of Changes in G.S. 7A-575.
6. Rosa Jones, Report on the Southern Legislative Conference on Children and Youth.
7. Other.

AGENDA

Juvenile Law Study Commission  
Friday, March 18, 1988, 9:00 a.m.  
Grand Jury Room, Guilford County Court House  
Greensboro, NC

1. Welcome and Refreshments. (9:00 a.m.)
2. Call to Order. (9:30 a.m.)
3. Approval of the minutes.
4. Dr. Michie Dew, - Case Presentation: Does death or serious abuse of a child constitute abuse or neglect of other children in the home?  
  
Mr. Mason Thomas, Institute of Government: Topic Research.
5. Mr. E.C. Modlin, Director of the Cumberland County Department of Social Services: Report on the Guardian Ad Litem Program.
6. Ms. Gwyndolyn Chunn;
  - a. Transportation Bill Proposal.
  - b. Update on 30 day commitments.
7. Commission Budget.
8. The next meeting date.
9. Other.

AGENDA

Juvenile Law Study Commission

Courtroom 2-E  
Guilford County Courthouse  
May 6, 1988 at 9:00 a.m.

- I. Welcome and Refreshments
- II. Approval of Minutes
- III. Transportation Bill
- IV. G.A.L.
- V. Next meeting date and place
- VI. Other

AGENDA

Juvenile Law Study Commission  
Friday, October 7, 1988  
Grand Jury Room, Guilford County Courthouse  
Greensboro, NC

1. Welcome and Refreshments. (9:00 a.m.)
2. Call to Order. (9:30 a.m.)
3. Approval of Minutes.
4. Gwendolyn Chunn
  - (a) Transportation Bill
  - (b) Report on Juvenile Age Committee Meeting.
5. Presentation by Virginia Weisz re:  
Does death or serious abuse of a child constitute abuse  
or neglect of other children in the home?
6. Membership Change Draft.
7. Preparation of Report to Governor.
8. Other
9. Next meeting date.



## AGENDA

Juvenile Law Study Commission  
Friday, December 30, 1988, 9:00 a.m.  
Grand Jury Room, Guilford County Court House  
Greensboro, NC

1. Welcome and Refreshments. (9:00 a.m.)
2. Call to Order. (9:30 a.m.)
3. Approval of the minutes.
4. Review of Report to the 1989 General Assembly.
5. Approval of Report.
6. Next Meeting Date.
7. Other.



APPENDIX E

Juvenile Law Study Commission Minutes: 1987-1988

## COMMISSION PROCEEDINGS

The Juvenile Law Study Commission met twelve times from the period beginning in March 1987 through December 1988. The following pages (Appendix E) contain a synopsis of each meeting. Copies of the official minutes are available in the Commission's office located on the fifth floor of the department of Administration Building, Raleigh, NC.

March 2, 1987

The meeting began with an introduction of the new Chair, Judge Sherry Alloway of Greensboro. Judge Alloway welcomed all members and guests and asked each person to introduce themselves. Most of the meeting was on orientation for the new members. Mr. Mason Thomas from the Institute of Government and Representative Anne Barnes, member and former Chair, discussed the history and work of the Commission.

Mr. Thomas began the presentation by telling the Commission that several years ago (1968-69) the General Assembly created a Study Commission to review and to propose a new juvenile code for the state. He stated that the Commission completed a report that contained two recommendations: (1) a new juvenile code; and (2) reorganization of juvenile services in state government. He pointed out that the recommendations were not implemented because of their controversy and lack of professional agreement. He said that the General Assembly later established the Juvenile Law Study Commission (1980). He pointed out that the General Assembly thought it would be helpful to have a group responsible for monitoring the implementation of the code and have a voice in changing the code.

Next, Representative Barnes spoke to the members about the work of the Commission. She began the presentation by stating that the Commission was established to monitor changes in the law and to do an ongoing review of juvenile services. She informed the Commission that during her term as Chair, she asked the group to take a closer look at redefining what it wanted to do. She said the Commission took it upon themselves to become "fact finders." She added that the members asked a number of people from juvenile services to address the Commission. Also, she stated that the members wanted the responsibility to review legislation affecting juveniles and propose changes that were needed.

Representative Barnes told the members that the Commission asked the Governor to appoint a member from the Juvenile Justice Planning Committee of the Governor's Crime Commission. She stated that a liaison was needed so that both the Committee and the commission could work on a number of large issues together.

Further, Representative Barnes pointed out that the Commission has introduced several pieces of legislation. She added that the report included what the Commission was supposed

to be doing, bills initiated by the Commission, and review of other bills. She informed the members that staff screened the bills relating to the Commission and, in turn, the members reviewed the bills and expressed opinions. She told the Commission that the opinions had been expressed by writing letters to the Chair of the committee to which a particular bill was sent. She felt that this procedure had worked well.

Representative Barnes concluded her presentation by stating that she was pleased with the friendship and respect the members had for each other. She felt being on the Commission has been a great experience.

The next item on the agenda was a review and update on the 1987 Juvenile Law Study Commission recommendations and proposals.

1. Juvenile Transportation Program. The Commission discussed several aspects of the proposal and agreed to keep the bill in its present form.
2. Training School Admission Criteria. The Commission discussed the idea of entering a bill on this issue or having a letter sent to the Department of Human Resources. The consensus of the Commission was for a letter to be written (from the Chair) to the Secretary of the Department of Human Resources and the Secretary of the Department of Corrections expressing the concerns of the members.
3. Secured Custody Change. The Commission approved the bill with no change.
4. Short Term Commitment. After a lengthy discussion, the Commission agreed to change some of the language in the bill.
5. Juvenile Detention Clarification. Following some discussion, Mr. Steve Williams made a motion, "that staff redesign the legislation in regards to pretrial release in detention to include that children bound over to Superior Court and not yet tried shall be held prior to in a juvenile detention center and that people convicted to the Superior Court, or plead guilty or no contest and receiving an active sentence from the Superior Court shall be immediately transferred to the Department of Corrections if they receive an active sentence." Mr. Lee Crites seconded the motion. The motion passed.
6. Definite Terms. The Commission agreed to keep the bill in its present form.
7. Chronic Status Offender. The Commission will wait to take further action on the bill after they receive the final recommendations of the Juvenile Justice Committee.

The next item of discussion was House Bill 29--Raising the Compulsory School Age. The consensus of the Commission was to oppose the bill. Judge William Neely made a motion that the Chair write a letter to the appropriate persons expressing the



Commission's opposition to bill. He asked that the list of reasons discussed earlier be placed in the letter. The list included the following items:

1. will double the present school population;
2. will have a major fiscal impact;
3. considerable impact on court counselors;
4. would have court repeats;
5. lack of ability to enforce;
6. money could be spent more effectively; and
7. difficulty in teaching students who do not want to be taught. Mr. Edwin Koontz seconded the motion. The motion passed.

March 23, 1987

Ms. Vicky Church of the Governor's Crime Commission gave a presentation of the Juvenile Justice Committee draft proposal regarding the Chronic Status Offender legislation. Ms. Church informed the Commission that the Juvenile Justice Committee did not have a formal recommendation at this time and that she would be presenting what the Committee had been discussing.

Ms. Church stated that the members (of a sub-committee) were concerned about the detention center issue. She said the committee was suggesting a retraction of HB-569 so that "they could look at it at a later date in time to allow equal protection and to allow a phase in (C.B.A. - 3 years) of the program." She added that the Juvenile Justice Committee has not given up the intent of HB-569.

Ms. Church said that the Committee felt that the definition of the chronic status offender should be changed. Also, she stated that the Committee wanted to take a closer look at what other states have been doing and to look at other types of alternative programs.

Ms. Church said that the Committee recommended a research portion to the bill. She stated that there was a need to look at the successes of the program and to make sure the money was wisely spent. She added that there was a need for some type of tracking system and that the research component would allow an independent organization to help in this area.

Following some discussion, Ms. Church provided the final items the Committee had recommended. They were:

1. If you delay detention, there is a need to broaden study beyond whether or not children of undisciplined behavior should come to court or not; whether detention is an option or not.
2. Funding for population for juveniles held in secure detention facilities.
3. Look at legislation that will bar weekend sentencing; there is not place to put runaways on weekends.
4. Meeting data base on kids coming in court.
5. Evaluation

The consensus of the Commission on these issues were:

1. Disagree on removing detention aspect (could delay, but prefer that it is in bill).
2. The program should be with the court and not C.B.A.
3. There was no discussion on broadening the issue (children coming to court--a court referral committee could come into play).

The next item of discussion was a status report on the following bills: HB-188, Juvenile Clarification Issue; HB-187, Secure Custody; and HB-186, Short Term Commitment. Representative Barnes told the Commission that the bills had been introduced and were sent to the Correction Committee (Rep. Barnes is Chair of Corrections). She said that the Corrections Committee would begin work on the bills beginning March 4, 1987.

The next portion of the meeting was devoted toward discussion of new legislation. The following bills were discussed:

1. HB-175 - Caretaker Definition.  
The consensus of the Commission was to support the bill.
2. SB-155 - Mental Health Resolution  
The Commission agreed to endorse the bill.
3. SB-154 - Report Child Abuse  
The Commission unanimously opposed the bill.

Representative Anne Barnes made a motion that the appropriate people be sent letters regarding the Commission's action on each of the bills. Representative Williams Alexander seconded the motion. The motion carried.

The final area of discussion was a handout from Judge Sherry Alloway (see attached sheet). Judge Alloway informed the Commission that she had gotten the material at a seminar and wanted to share it with the members.

After some discussion, the Commission agreed that they would like to study the issue and make some recommendations at a future date.

#### April 13, 1987

The first portion of the meeting focused on the Juvenile Justice Committee's Formal Recommendation on the Chronic Status Offender Legislation. Mr. Robert Wesley, Jr., and Ms. Vicky Church gave a presentation on the Committee's proposal. Mr. Wesley stated that the Juvenile Justice Committee had been working on the issue for a long time and he felt that it was necessary to move forward with the legislation. Mr. Wesley told the Commission that Ms. Church had been closely involved with all aspects of the bill and asked her to continue the presentation.

Ms. Church told the Commission that the proposal did not focus on the chronic status offender behavior except to note the behavior signals unmet or inappropriately met needs. She stated that the proposal focused on "equipping the courts and human service systems through legislation and programming to assist families, schools, and communities in providing sufficient opportunities for success for children who have repeatedly run

away, been truant and/or ungovernable in the home and community." Ms. Church continued the presentation with a step-by-step review of the bill. She concluded the summary by answering questions submitted by members of the Commission.

Following a lengthy discussion, the consensus of the Commission was to make several amendments to the bill. The amendments included the following:

Page 1 - (17A) - line one - add "study committee per county."

Page 1 - (17A) - line six - add "chief court counselor staff" (to the definition of the interdisciplinary committee).

Page 3, section (n), line 5 - strike the words "an approved chronic status offender intensive counseling program" and replace with "an approved detention center." Also, add to the same section (b), "intensive counseling shall be provided to eh juvenile while in confinement by the Chronic Status Offender program." This language is to be added throughout the bill where necessary.

Page 4, G.S. 7A-289.17, section (1), line 4 - the word "team(s)" should be replaced with the word Committee(s).

Page 6 - The amount of money should be changed from \$1.5 million to \$1.77 million.

Representative Anne Barnes made a motion that the Commission approve the bill as amended and pursue its introduction. The motion was seconded by Representative William Alexander. The motion carried.

An update on the Commission legislative proposals was the next item of discussion. Representative Barnes gave a status report on the following bills.

HB 186 - Short Term Juvenile Commitments

The bill was passed the House and is not in the Senate.

HB 187 - Secure Custody Change

The bill has passed the House and is now in the Senate.

HB 188 - Juvenile Detention Clarification

The bill is in a subcommittee of the House Corrections Committee.

For the remainder of the meeting, the Commission reviewed several pieces of legislation. The bills included the following:

HB 397 - Defendant Pay/Treatment of Child

Representative Alexander made a motion that the Commission oppose the bill. Mr. Edwin Koontz seconded the motion. The motion carried.

HB 352 - Juvenile Records of Research

Representative Anne Barnes made a motion that the Commission approve the bill. Mr. Steve Williams seconded the motion. The motion carried.



- HB 351 - Juvenile Information Sharing  
Mr. Edwin Koontz made a motion that the Commission approve the bill. The motion was seconded by Representative Anne Barnes. The motion carried.
- HB 279 - Prohibit Minors from Appearing Topless  
The consensus of the Commission was not to address the bill.
- SB 232 - Privacy/Child Witness  
The consensus of the Commission was to take no action on the bill.
- SB 188 - No Pass/No Drive  
Mr. Lynn Hughes made a motion that the Commission oppose the bill. Mr. Lee Crites seconded the motion. The motion carried.
- SB 184 - Drop-Out Referral System  
The consensus of the Commission was for the bill to be discussed at a future meeting.
- SB 135 - Grand Jury/Children Exploited  
The consensus of the Commission was that additional information was needed before any action could be taken.
- SB 81 - Dropouts Ineligible for Drivers Licenses  
Judge William Neely made a motion that the Commission oppose the bill. Mr. Lynn Hughes seconded the motion. The motion carried.
- SB 38 - Child Witness Hearing Expedited  
Mr. Edwin Koontz made a motion that the Commission approve the bill. Ms. Nancy Smyth seconded the motion. The motion carried.
- SB 37 - Expedite Trials with Child Witnesses  
Mr. Steve Williams made a motion that the Commission approve the bill. Ms. Rosa Jones seconded the motion.
- The consensus of the Commission was that letters be sent to the appropriate persons, stating the Commission's action on each bill.

May 4, 1987

The first item of discussion was an update of the Commission's Legislative Proposals and Recommendations. They were:

- HB 930 - Juvenile Transportation Program  
The bill is in the Appropriations Committee.
- HB 188 - Juvenile Detention Clarification  
The bill has passed the House and is in the Senate.
- HB 187 - Secure Custody Change  
Ratified.
- HB 186 - Short-Term Commitments  
Ratified.

Next, the Commission reviewed several pieces of legislation. The bills included the following:

HB 786 - Juvenile Records

After some discussion, the Commission recommended several changes. They were:

- a. reverse the section order (e to d).
- b. the judge may order (where court counselor cannot secure pertinent and important information) the juvenile medical and social histories...
- c. records must be reviewed within 15 days.
- d. confidentiality responsibility accompanies the document (all personnel are subject to the confidentiality law).
- e. take all shalls out of the bill and replace with may.
- f. line 12--replace the word stipulate with explain.

SB 521 - Protective Services Specified

The Commission agreed to address the bill following discussion of SB 367 - Juvenile Code Revision.

HB 838 - Privacy/Child Witness

The consensus of the Commission was to take no action on the bill.

HB 837 - Home Instruction/Compulsory Education

The consensus of the Commission was not to address the bill.

HB 826 - Clarify Domestic Violence

Judge William Neely moved that the Commission support the bill. Representative Alexander seconded the motion. The motion carried.

HB 787 - DYS Teacher Training

The consensus of the Commission was to address the bill at a later date.

HB 673 - Grand Jury/Child Abuse

The consensus of the Commission was not to take a position on this bill.

HB 636 - Adoption/Termination of Parental Rights

Representative Alexander moved that the Commission support the bill. Mr. Edwin Koontz seconded the motion. The motion carried.

HB 541 - No Death Penalty for Youth

The consensus of the Commission was to take no position on the bill.

SB 614 - Child Pornography/Forfeit Assets

The consensus of the Commission was not to address the bill.

SB 602 - Certification of Child Placement

The Commission agreed to discuss at a later date.

SB 599 - Juvenile--Implied Consent Law

Judge Neely moved to support the bill. Mr. Steve Williams seconded the motion. The motion carried.

SB 526 - Felony Child Abuse Change

Ms. Bonnie Cramer moved that the Commission support



the concept of the bill but feels the legislation is too broad (also, concerned about the definition of physical abuse). She asked that this concern be communicated to the bill sponsor. Mr. Clayton Yates seconded the motion.

**SB 367 - Juvenile Code Revision**

Ms. Virginia Weiz from the Administrative Office of the Courts gave a presentation concerning the bill. Ms. Weiz discussed section-by-section the different aspects of the bill. After a lengthy discussion, the Commission agreed to support the concept of the legislation; however, there were a variety of concerns the Commission had: They included some of the following:

- a. extent of reasonable effort required under the bill.
- b. fiscal cost.
- c. which children removed from their homes are covered under the bill.
- d. petition for termination of parental rights.
- e. removal of other children from the home.

The consensus of the Commission was to send a letter to the Senate Chair on Children and Youth (Senator Richard Conder) stating the Commission's concerns. Also, the Commission agreed to discuss the bill at its next meeting.

The Commission agreed to discuss several bills after SB 367

- Juvenile Code Revision was addressed. They were:

- HB 639 - Custody Review Waivers
- HB 638 - Protective Services Clarification
- HB 637 - Abused Juvenile Change
- HB 558 - Admission and Commitment Transp.
- HB 551 - Minors Admission Law

June 8, 1987

The first presentation was from Mr. Andy Little, NC Association of Social Service Attorneys who discussed SB 367 Juvenile Code Revision. Mr. Little explained that his association was opposed to the bill because of some of the amendments and changes made to the bill. He added that the bill would create many problems such as "a never end to the petition". Also, with the Royall amendment problems would occur because if the bill passed, not enough money would be appropriated.

After a lengthy discussion, the Commission had mixed feelings on the proper action it should take. This was due partly because portions of the bill were acceptable (such as the Commission's own amendment to the bill) but several sections were opposed by the members.

The consensus of the members was to continue to support the intent and philosophy of the bill. The Commission felt that there were some problems (in the bill) that could be addressed in

the House. In the event this did not happen, Ms. Bonnie Cromer suggested a letter be sent to the appropriate House members outlining the Commission's concern, such as the letter previously sent to Senator Richard Conder. Mr. Andy Little agreed to monitor the bill and draft a letter on behalf of the Commission at the appropriate time.

The remainder of the meeting centered on reviewing legislation. The following list outlines the Commission's action on the bills:

- HB 2098 Juvenile Supervisor Funds  
This is part of the Commission's legislative proposals.
- HB 1249 Undisciplined Age Raised  
The Commission agreed to oppose the bill.
- HB 1221 Parental Responsibility Unruly Students  
The Commission agreed to take no action.
- HB 1220 Church Schools/Corporal Punishment  
The Commission agreed to take no action.
- HB 1113 Abuse Victim's Identity Protected  
The Commission agreed to take no action.
- HB 1068 Consent for Minors Abortion  
Mr. Lynn Hughes made a motion to oppose the bill.  
Mr. Lee Crites seconded the motion. The motion carried.
- HB 1056 Raise Compulsory Education Age  
Mr. Lee Crites made a motion to oppose the bill.  
Ms. Nancy Smyth seconded the motion. The motion carried.
- HB 1023 Psychologist Report Child Abuse  
Mr. Crites made a motion to support the bill.  
Mr. Hughes seconded the motion. The motion carried.
- SB 708 Home Schools Regulated  
The Commission agreed to take no action.
- SB 779 Home Schools/Compulsory Education  
The Commission agreed to take no action.
- SB 787 Children and Youth Commission  
The Commission agreed to take no action.
- SB 808 Minors Can't Use Tobacco Products  
Mr. Steve Williams made a motion to endorse the bill.  
The motion carried.

#### October 16, 1987

The meeting began with Judge Alloway introducing two new members, Shirly Hudler from Wilkesboro and Sheriff Fred Spruill from Edenton. Judge Alloway gave a brief description and purpose of the Commission and welcomed the new members to the Commission.

The main portion of the meeting centered on developing a future agenda of issues for the Commission. Prior to the agenda discussion, there were several topic discussions that have been

outlined below.

Calendar--The consensus of the Commission was to meet once every two months. The Commission felt that its main work should focus on developing a package for the next long session. At the same time, the Commission wanted to keep up with legislation that would be discussed in the Short Session.

The Commission agreed to hold some of the future meetings in various parts of the state. The members felt this would allow some members and guests to attend more often.

Staffing--Judge Alloway explained that Legislature would be unable to provide staff for the Commission. Judge Alloway stated that she had asked the Governor's Office for some additional staffing that would aid in developing and drafting issues for the Commission. She added that if necessary, other areas would be explored in obtaining the staff person.

Review of the 1987 Session--Judge Alloway told the Commission that 3 of the bills Representative Anne Barnes introduced had passed. The bills were: HB 186 Short Term Juvenile Commitments; HB 187 Secure Custody Change, HB 188 Juvenile Detention Clarification. Also, she stated that Rep. Barnes had introduced HB 930 Juvenile Transportation Program and the bill was still alive for the Short Session. Judge Alloway told the Commission that they would need to assist Rep. Barnes in getting the legislation passes.

Next, the Commission formed a list of issues to study and agreed to discuss them in greater detail during a future meeting. The list included the following items:

1. Raising the juvenile age to 18
  - a. "beefing up the Hippie House Bill"
  - b. look at information provided by Robert Cansler.
2. Secure and Non-Secure Custody (7A-755)
 

Mr. Hughes would like to see a change in the wording of the statute. He felt that some legislation could be drafted by the Commission that would aid in solving the petition problem.
3. Update on Willie M Program
  - a. need status report on program
  - b. would like someone from the Legislative staff to give status report on law suit
  - c. Rep. Barnes wants to share letter with the members she wrote to the Sec. of Human Resources on behalf of the Commission (concerning the Willie M program).
4. Placing a new member on the Commission who represents the Guardian Ad Litem Program.
5. Family Court System
6. Report and Update on Child Mental Health Legislation
  - a. request information from D.P.I. and the School Social Worker Association
7. Evaluation of the Guardian Ad Litem Program

The final item discussed was a request from Ms. Rosa Jones and Rep. Anne Barnes for funding to attend the Southern Legislative Conference on Children and Youth (held in San



Antonio, Texas, Nov. 14-16, 1987. After some discussion, Mr. Lynn Hughes made a motion that the Commission fund up to a total of \$1,000 for the two members to attend the conference. The motion carried.

January 15, 1988

The Commission's first presentation was from Ms. Marilyn Stevens, Program Analyst for the guardian Ad Litem. Ms. Stevens stated that the G. A. L. (under the Administrative Office of the Courts) is a program of volunteer services that represent children in abuse and neglect cases. She added that along with attorneys the volunteers work in district courts throughout the state. Ms. Stevens' comments have been outlined below (present tense form).

A. Volunteers

The volunteers specific duties are stated in the NC statutes. The volunteers go through a 16-hour training program. The training consists of a thorough discussion of the handbook (written by members of the State Bar and G.A.L. Volunteers). The volunteers attend several hours of court observation and listen to presentations made by court personnel, mental health professionals, school counselors, social workers, medical professionals and experienced volunteers in the program.

There are currently over 600 volunteers in the program. The volunteers are part-time workers, full-time workers and retirees.

B. Attorneys

The attorneys work with volunteers to protect the rights of children. The services the attorneys provide include: consultation, negotiations between parties, drafting and reviewing motions; handling appeals; and any other legal services needed in carrying out the program. There are 103 attorneys in the program that are selected because of their interest, experience and work with children in the court (and work with G.A.L. volunteers).

C. Program Coordinators

A coordinator is employed to recruit volunteers in the 21 larger judicial districts. The coordinator plans the regular 16-hour training course for the new volunteers and implements the service training. Also, the coordinators are acquainted with various support services and resources in the community.

The Commission members were interested to know if there were any statutory problems for the G.A.L. that needed to be addressed. Ms. Stevens responded by stating that some concerns included the following:

1. Legislation concerning adoption - In cases where there is an adoption disruption (and G.A.L. is brought in) what is the G.A.L. role after disruption in the adoption process?
2. Placing a G.A.L. volunteer or attorney on the Juvenile Law Study Commission to take a closer look at issues.
3. Any legislation that preserves an objective volunteer

force.

The second presentation was from Ms. Rosa Jones. Ms. Jones gave a report on the Southern Legislative Conference on Children and Youth held in San Antonio, Texas on November 15-18, 1987. Ms. Jones told the members that she enjoyed the conference and felt that it was a valuable experience. She said the conference was designed to help everyone to take a major step toward a common goal in planning the future of our children and youth. She stated that the workshops focused on a wide spectrum that included: health care, welfare reform, adolescent pregnancy, child support, A.F.D.C. and infants with Aids. Ms. Jones felt the conference revealed that children and families in the U.S. are not the country's top priority in how money is spent in meeting the needs of our children and youth. She said that we all should pay closer attention to government spending and government decisions regarding children and families.

The third item of discussion was a presentation from Ms. Gwyndolyn Chunn, Division of Youth Services, response to HB 930 - Juvenile Transportation Bill. Ms. Chunn stated that DYS had some concern about the bill but was not opposed to the intent. She stated that based on new information (that was not available last year) the agency was concerned about the implications of the bill. For instance, she told the Commission that the population in training schools has not been below 650 for the past 18 weeks. She added that for the last 2 months the population was rarely below 700 and because of more children there were more costs (transportation, care, etc.). She pointed out that in December the population was never below 700 (700 is the maximum).

Ms. Chunn said that DYS was also concerned that one program would have to be chosen over the other (Pitt - on call people - contract basis - reimbursed; Buncombe - employees are state transportation officers and use state vehicles). She informed the members that there was also a problem with the 30 day commitment population.

Ms. Chunn concluded her first presentation by stating that DYS was not opposed to the intent of HB 930 but due to new information the agency did not realize what some of the implications would be. She said that DYS needed some time to work on some new proposals or amendments to the bill and present them to the Commission before the Short Session.

The consensus of the members was for Ms. Chunn to bring the DYS proposals to consider at a future meeting. Rep. Alexander agreed to assist Ms. Chunn with any drafting changes in the bill.

At this point of the meeting, Mr. Rick Wesley made an announcement that the NC Business and Industry (lobby group) was meeting in March and is seeking a change in some of its policy issues. He stated that in the past, the organization had emphasized economic development but this year would emphasize a change in education development. He stated that he was alarmed at the high school dropout rate and felt the state would not prosper economically if it did not show improvement in the education system. In addition to this announcement Mr. Wesley



said that the Crime Commission via the Juvenile Justice Planning Committee would be emphasizing primary and early intervention in solving the delinquency problem. He said the Crime Commission would be issuing grants to help in preventative care. He asked the members to share any ideas with him or their groups in solving some of the states problems.

Ms. Chunn's next presentation was a report on the short term commitments. She said that in the beginning DYS thought it would be able to absorb the cost for the commitments. She informed the Commission that statistics showed the following: 1984-85 - 12 commitments; 1985-86 - 12 commitments; 1986-87 - 7 commitments. Ms. Chunn pointed out that since July 1, 1985 to the present, there have been 7 commitments. She added that the agency originally thought the cost could be absorbed but due to the increase of the 30 day commitment population the agency would have difficulty in absorbing costs (15 dollars a day for 30 days). Ms. Chunn stated that DYS was not opposed to the law but felt there was a need for more appropriation for the program.

The final presentation was from Mr. Mason Thomas, Institute of Government. Mr. Thomas presented a draft bill concerning changes in G.S. 7A-575 (copy of bill is below). After some discussion, the consensus of the Commission was to omit and change some language in the bill so that it would read as follows (Line 7).

A DCI message (a message of the Division of Criminal Information, State Bureau of Investigations) stating that the Juvenile petition and secure custody order is on file in a particular county shall be authority to detain the juvenile in secure custody order can be forwarded to the detention facility. Sec. 2. This act is effective upon ratification.

Representative William Alexander made a motion that the Commission adopt the bill as amended. Mr. Lynn Hughes seconded the motion. The motion carried.

#### A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A SECURE CUSTODY ORDER WHEN THE JUVENILE IS NOT A RESIDENT OF THE DISTRICT UNDER THE JUVENILE CODE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-575 is amended by adding the following new sentence at the end of the first paragraph to read:

"If the juvenile is not a resident of the district where the detention facility is located, a DCI message (a message of the Division of Criminal Information, State Bureau of Investigation) stating that the juvenile petition and secure custody order is on file in the juvenile's county of residence shall be authority to detain the juvenile in secure custody until copies of the juvenile petition and the secure custody order can be forwarded to the detention facility."

Section 2. This act is effective on ratification.

March 18, 1988

The first item of business was a case presentation from Dr. Michie Dew, Psychologist from Guilford County. Dr. Dew discussed the topic - Does death or severe abuse of a child constitute abuse or neglect of other children in the home? Dr. Dew described a case that recently occurred in Greensboro. (Dr. Dew's comments are outlined below in present tense form).

Background of family - A four month old child died of a head injury (child was shook-brain hemorrhage). The infant lived with biological mother, mother's boyfriend, maternal grandmother and three sisters (ages 9, 4, 2).

The family (from Kentucky - had problem there) has had two other deaths in 2 1/2 years. One of the mother's daughter died from an overdose of grandmother's medicine. The grandmother's mentally retarded son died shortly after the daughter's death.

Social Services - Legal involvement with family - No one in the family would say what happened so there was no prosecution. Guilford County obtained custody of the siblings following the infant's death and sought psychological evaluations of the family. Social Services and other parties involved (foster family) found numerous areas of neglect in the family. When the case was returned to court the judge stated that Social Services had no legal basis to continue involvement in custody because the law doesn't specify that if one child has been in danger or is dead the other children are in danger also. A consent agreement was obtained whereby the children were returned home physically and Social Services would maintain legal custody (also protective services involved). Social Services believed if they went to trial the result would have been no supervision of the children.

Dr. Dew commented that she felt the law had prevented the protection of the other children. She stated that perhaps the law doesn't provide protection specifically to siblings if there is severe violence or death to one child in the family. She also stated that the law may be too vague and asked the Commission to help in correcting the problem.

Judge Alloway told the Commission that she had asked Mason Thomas, Institute of Government, to research (this topic) and see if the statutes cover such circumstances. Mr. Thomas stated that there was an unreported Court of Appeals decision that in effect holds that a judge is authorized under disposition section to remove a child because something happened to another child. Mr. Thomas said he did not know why the case had not been reported and has not been able to obtain any more information or name of the case.

Following a brief discussion, Mr. Edwin Koontz made a motion that legal counsel continue to investigate this area to the fullest and look at possible changes that could be made in the law. He asked that counsel bring this information to a future Commission meeting. Ms. Gwyndolyn Chunn seconded the motion. The motion carried.

The next presentation was from Mr. E. C. Modlin, Director of



the Cumberland County Department of Social Services. Mr. Modlin gave a report on the Guardian Ad Litem program. Some of this comments have been listed below.

1. G.A.L. works well in some counties but not so well in others (have variation in program from one county to the next).

2. There is a lot of second guessing of D.S.S. by the G.A.L. which is a problem because no other agency does this. Also, the children sometimes are confused by the double messages they get.

3. The training needs to be more effective (16 hours is not enough).

4. Children need advocate but not one that feels he or she must compete or give therapy (volunteers sometimes do this - agency has to go through due process).

5. D.S.S. is authorized to get information and statutes require confidentiality - there has been a problem (confidentiality) with some volunteers. Volunteer not privy to all adoption information.

6. The role of the volunteer needs to be more prescribed.

7. The G.A.L. is not accountable - only agency in NC not accountable to anyone.

8. An independent evaluation of program needs to be done. The evaluation should not be done by D.S.S., G.A.L. or a mental health association.

Mr. Modlin concluded his presentation by stating that he was not saying the G.A.L. was bad but there were areas that needed to be improved. He asked the Commission to look at some of the points he made and decide if they would be able to help improve the program.

Next, Ms. Gwyndolyn Chunn, Division of Youth Services, gave a progress report on the transportation bill (HB 930) and the 30 day commitments. Ms. Chunn first reviewed a handout concerning the statewide transportation system for detention and training school population. Ms. Chunn discussed the present transportation system in place and said that there was a need to provide or expand services to the rest of the state. She added that their system would cost approximately \$675,000.

The Commission discussed several figures and concluded that two points still needed to be known. There were:

1. The cost for D.Y.S. in-county transportation.

Ms. Chunn also told the Commission that her office was still gathering data on the 30 day commitments. She said that there have been 12 commitments since the law took effect.

The next item of discussion was the Commission budget. Judge Alloway told the Commission that staff had submitted a supplemental request of \$5,200 to the Governor's (for the 1988-89) budget. She told the Commission a supplement was needed due to increases such as travel expense, printing, legal counsel for the compendium report and purchasing items for the office (typewriter, file cabinet, trash can).

The last item of discussion was a request from Judge Alloway and Judge Neely to attend the Juvenile Law Conference in May.

Mr. Lynn Hughes made a motion for the Commission to fund up to \$1000.00 for the trip. Ms. Nancy Smyth seconded the motion. The motion carried.

May 6, 1988

The first item of business was discussion of a statewide juvenile transportation program (HB 930). Ms. Gwyndolyn Chunn reviewed a report compiled by the Division of Youth Services concerning the transportation program. Ms. Chunn informed the Commission that the proposal was not included in the Governor's 1988-89 budget package. She pointed out that D.Y.S. wanted to see what the Juvenile Law Study Commission final recommendation was (since the bill came from the Commission) prior to asking for the Governor's support.

Ms. Chunn stated that the transportation program would provide service throughout the state (county detention center, county regional center and state regional center). She said the program would also provide transportation to training schools, medical emergency appointments and court appearances. She informed the members that the cost for the program would be \$716,620.

Following Ms. Chunn's presentation, the Commission discussion focused on the need to know the cost other agencies presently pay for transportation and what the proposed program would provide in state budget savings. Judge Alloway told the Commission that she had asked Ms. Nancy Patterson, Juvenile Services Division, Administrative Office of the Courts, to provide some information concerning transportation cost in the A.O.C. agency. Ms. Patterson provided a handout to the members that included the following information.

**JUVENILE SERVICES DIVISION**

Summary of Estimated Transportation Cost for Training School and Detention

|                           |              | FY - '86 - '87 |                     |             | COUNSELOR<br>TIME COST |
|---------------------------|--------------|----------------|---------------------|-------------|------------------------|
| <u>TRANSPORTATION TO:</u> | <u>TRIPS</u> | <u>MILES</u>   | <u>MILEAGE COST</u> | <u>HOUS</u> |                        |
| Training School:          |              |                |                     |             |                        |
| Admissions Only:          | 503          | 105,135        | \$21,027.00         | 4323.30     | \$54,300.65            |
| Detention -               | 2370         | 94,851         | 18,970.00           | 4463        | 56,055.28              |

Ms. Patterson stated that A.O.C. had tried to look at trips made for admission only. She said the information (handout) did not include runaways or ongoing visit (trip x 1 instead of x 3).

The Commission continued to discuss the need to know the exact cost counties and other agencies have in regard to transportation of juveniles. The consensus of the Commission was to get more information concerning cost from Administrative Offices of the Courts, Division of Youth Services, the Sheriffs Association, and the County Commissioners Association. In addition, the Commission wanted a letter written to the Sheriffs Association and County Commissioners asking for their support of the bill as well as getting the figures on the amount of money they spend for juvenile transportation.

Ms. Chunn agreed to draft a letter for the Chair to sign that would include a succinct version of the transportation proposal. Ms. Chunn agreed to send the letter to the Sheriffs Association and the County Commissioner. The Commission asked that the letter include a form that each association or individual could outline the exact transportation cost they absorb (sheriff or county) and return the form to the Commission.

Following the discussion concerning the letter, Representative Alexander made a motion that the Commission adopt the information presented in Ms. Chunn's report and that the Commission go forward with the bill, including the \$716,620 appropriation figure. During the discussion of the motion, Judge Neely made a friendly amendment that asked that in Section One of HB 930 read as follows:

There is established a Juvenile Transportation Program within the Division of Youth Services, Department of Human Resources. This program will provide a system of transportation of juveniles to juvenile detention centers and to provide a similar system for transportation of juveniles to training schools.

Section 2. line 18 replace (\$90,000) with (\$716,620) and change 1987-88 to 1988-89.

Representative Alexander accepted the friendly amendment. The Commission voted on the amended motion. The motion carried.

The next area of discussion was the Guardian Ad Litem. Judge Alloway informed the Commission that the previous reports concerning G.A.L. had been provided so the members could decide if there was a need to add a G.A.L. member to the Commission.

After some discussion, Judge Neely made a motion that the membership be expanded to include a G.A.L. member and to reduce the Youth membership to one year (instead of indefinite). Ms. Bonnie Cramer seconded the motion. During the discussion period concerning the motion, Representative Alexander made a friendly amendment to reduce the Youth membership to one and replace the second position (youth) with a G.A.L. member. He asked that the Governor choose the G.A.L. member. The amendment was accepted. The Commission voted on the amended motion. The motion carried.

Ms. Bonnie Cramer told the Commission that she was concerned about the G.A.L. reports presented at the last two meetings,



especially some of the points Mr. E. C. Modlin discussed in March. She felt that some of the issues asking for improvement in the G.A.L. would be appropriate for the Commission to study.

The Commission agreed that there were several areas of concern in regards to the G.A.L. that needed to be addressed but were unsure how the Commission should handle it. After a brief discussion, the consensus of the Commission was to set up a sub-committee to study or review the G.A.L. and to also ask Virginia Weiz or the G.A.L. office to assist. Judge Alloway asked for volunteers to serve on the committee. The volunteers were: Bonnie Cramer, Gwyndolyn Chunn, Judge Alloway. Judge Alloway stated that she would also ask Mr. Edwin Koontz to serve on the sub-committee.

The final item of discussion was a draft of some legislation entitled: An Act To Ensure That Children Under the Jurisdiction of the Juvenile Court Shall Receive Educational, Habilitative, and Therapeutic Services To Which They Are Entitled By Law. Judge Alloway stated that the working draft legislation concerned family court matters and wanted the members to review the material that would be discussed at a future meeting.

#### June 13, 1988

The major portion of the meeting centered on legislation that was reviewed by the Commission in 1987 and was still alive for the 1988 Short Session. (The four bills discussed are outlined below).

##### A. SB 367 Juvenile Code Revision

Ms. Virginia Weiz, Administrator for the Guardian Ad Litem Program (A.O.C.) presented to the Commission a proposed substitute for SB-367. She stated that the proposal would accomplish the following three things:

1. Provide a statutory basis for the finding of "Reasonable Efforts" which is required if federal and state funds can be used to pay for foster care.
2. Improve due process for parents and children through a summons that informs the parent of the possibility that the child might be removed and of the parent's right to counsel. Continuances are allowed only when in the best interest of the child.
3. Gives the child alleged to be dependent, as well as abused and neglected, representation by a guardian ad litem if the court deems it necessary.

Ms. Weiz concluded her presentation by stating that the endangered child law aspect as well as the money or appropriation had been removed in this version of the bill.

The Commission discussed several aspects of the bill and agreed to take no action at the present time.

##### B. HB 930 Juvenile Transportation Bill

Representative Barnes told the Commission that it was unlikely the bill would pass in the Short Session due to the lack of money and the availability of time to pursue the issue. She

suggested that the Commission could continue its support for this idea in the 1989 Session. She added that more research and figures on cost were needed from all agencies and departments involved in order for the bill to become law. She also suggested that an approach to getting this legislation passed would involve a phase-in plan (2-3 years). She felt this would allow more time for reports and recommendations to be made by all of those involved with the program.

Ms. Gwyndolyn Chunn, Division of Youth Services, stated that her agency supported the concept of the legislation but needed to look at and research areas that included a re-draft of the bill, the phase-in portion and the fiscal note.

The Commission felt that there could be a possibility of coordinating the transportation of juveniles with other existing programs (possibly involving the Elderly Transportation Bill) including the Department of Human Resources. The Commission was concerned about how to approach D.H.R. in combining some of their transportation resources to include juveniles. The consensus of the Commission was for Ms. Chunn to present a letter to D.H.R. from the Chair of the Juvenile Law Study Commission stating that the Commission is still in favor of the bill and plan to make it a part of the Commission's request package for the 1989 General Assembly.

#### C. HB 826 Clarify Domestic Violence

Representative Barnes stated that three bills were passed in the House that dealt with this area of the law. (A paraphrase of Representative Barnes comments have been outlined in the following paragraph.)

"A Senate committee met and combined the bills and Rep. Ruth Easterling's bill was chosen to be sent back to the House. The House committee decided not to concur and a conference committee (Senate and House) was set up in order to reach a compromise. When the final bill got to the enrolling stage a page was dropped out which happened to be the Domestic Violent Act of North Carolina. Due to human error the D.V.A. was dropped out of the General Statutes. Instead of introducing a new bill that would take a very long time (process), the bill (HB 826) was amended to include the D.V.A. and to put the law back in the statutes of North Carolina."

Representative Barnes stated that the bill had passed its first and second reading in the Senate but that the third reading had been objected to. She added that she did not know the reason for the objection to the third reading but felt the bill would pass.

After some discussion, Representative Barnes made a motion that if there was a problem with getting the bill through the Senate, a letter needed to be written from the Commission expressing a desire to get the Domestic Violence Act back into law. If the letter is needed the Chair of the Commission will be contacted. Mr. Lynn Hughes made a second to the motion. The motion passed.

#### D. HB 1068 Consent for Minor's Abortion

Representative Barnes told the Commission that the bill was still alive for the Short Session and was currently in Senator Martin's judiciary sub-committee. After some discussion, Representative Barnes made a motion that the Chair of the Commission communicate with Senator Martin a letter stating the Commission's continued opposition of the bill and a copy of a letter previously sent to him (1987) expressing the Commission opposition be attached. Mr. Edwin Koontz made a second to the motion. Following a discussion period after the motion, Representative Barnes amended her motion. Representative Barnes made a request that only the earlier (1987) letter of opposition to the bill be sent to Senator Martin. The amended motion passed.

The next portion of the meeting concerned the budget. Judge Alloway informed the members that there was no increase in the 1988-89 Commission budget. She stated that some of the Commission member resources and talents would be needed in putting the compendium report together due to the lack of funds to seek outside or contractual help.

The final part of the meeting included a brief statement from Celeste Dean, Youth Advocacy and Involvement. Ms. Dean stated that her agency was studying the issue of raising the juvenile age to 18 and knew the Juvenile Law Study Commission shared an interest in the issue. She stated that a committee was being formed to look at the issue and that two members from the J.L.S.C. were needed to serve on the committee. Judge Alloway agreed to make two appointments and forward the names to Ms. Dean.

#### October 7, 1988

The meeting began with an introduction and welcome from Judge Alloway to the Commission's two new members, Senator Helen Marvin of Gastonia and Joan Holland, from the Department of Social Services.

Following the introduction, Ms. Gwyndolyn Chunn, Division of Youth Services, discussed the juvenile transportation issue (bill). She stated that DYS had submitted a request to the department of Human Resources but it was not included in their budget request package. She said that DYS had followed through with appropriate moves to be included in the Governor's package and now felt it was up to the Commission to make the next step. She said DYS was in favor of a program and the agency felt more confident about a bill that included the \$700,000 to implement the program.

The Commission discussed the idea of the Administrative Office of the Courts implementing the program but attorney Virginia Weiz, AOC, felt this could not be currently done (in AOC). She suggested that the Commission talk with Dr. Tom Danek about the issue. Also, the Commission felt the Sheriff's Association should be approached and asked for their support of the bill (issue).



Following some discussion, Mr. Edwin Koontz made a motion that the Commission (Chair) approach the Sheriff's Association for their response and support of a juvenile transportation bill. He added that the letter sent earlier to the county Sheriffs be included when contacting the Association. Ms. Rosa Jones seconded the motion. The motion carried.

Next, Ms. Chunn gave a report on the Committee to Examine Issues Surrounding Raising the Juvenile Age (Ms. Chunn and Ms. Holland represent the JLSC on the Committee). Ms. Chunn stated that the Committee, Chaired by Senator Charles Hipps, was looking at various issues involved with raising the juvenile age to 18. She felt the study was worthwhile and the Committee discussed different ways the term juvenile was defined in North Carolina. She presented a handout that explained some of the issues and asked that all members be mailed a copy. She added that there was some interest in introducing legislation in 1989 concerning this issue. In addition, Ms. Celeste Dean, Staff for the Committee (GACCY) stated that the Committee was looking at all aspects of the issue and was not pursuing any one particular avenue in resolving the problem. She added that there was a possibility that some concerns could be resolved without the introduction of any legislation.

Ms. Virginia Weiz, Guardian Ad Litem Program (AOC), gave a presentation concerning the following topic (legislative): Does death or serious abuse of a child constitute abuse or neglect of other children in the home? Ms. Weiz stated that there was a need in strengthening the statute to allow evidence to be presented in such cases. She felt the current statute needs more definition so that the court could be open to listen to such evidence. After Ms. Weiz's presentation, the consensus of the Commission was to continue to study this issue and propose legislation for the Commission to review.

Next, the Commission discussed a membership change draft bill. The change would include dropping one youth member as well as limiting the youth membership to one year. Also, the Commission wanted to add a member from the Guardian Ad Litem Program. Mr. Mason Thomas, Institute of Government agreed to draft the bill.

Judge Alloway gave a brief statement about the compendium report that will be presented to the Governor and 1989 General Assembly. She stated that the format would follow the 1987 report. Mr. Thomas agreed to help with the drafting of bills and recommendations from the Commission.

Mr. Lynn Hughes made a motion that the Commission study and propose legislation dealing with expedition of records for offenders under the age of 18 who are delinquent or undisciplined when the court does not find the juvenile committed the offense charged in the petition or where the case is dismissed without on adjudication for any reason. Ms. Rosa Jones made a second to the motion. The motion carried.

December 30, 1988

The meeting centered on approving the Commission's legislative proposals and recommendations to the Governor and 1989 General Assembly. The Commission reviewed six legislative proposals and appendices presented by Mr. Mason Thomas and Mr. Randy Brantley. The Commission reviewed the report and made some legislative and technical changes in the material presented.

Following the recommended changes, Ms. Nancy Smyth made a motion to approve the JLSC 1989 Legislative Report. Mr. Lynn Hughes made a second to the motion. The motion carried.

For the final portion of the meeting, Ms. Joan Holland discussed her involvement with the Committee to Examine Issues Surrounding the Juvenile Age (Ms. Holland along with Ms. Chunn represent the JLSC on the Committee). Ms. Holland shared with the Commission a variety of the issues that were discussed at the meetings. She told the members that she had been asked to give the JLSC response to the idea of raising the juvenile age at the Committee's January meeting. The members emphasized that they (the Commission) had historically been opposed to raising the juvenile age and would continue to take this stand. The consensus of the Commission was that an indepth adequately funded and staffed study commission be created to deal with this problem. The study commission should also submit a report to the Governor and General Assembly outlining their recommendations. Ms. Holland agreed to convey this message to the Committee.





APPENDIX F

Correspondance from the Juvenile Law Study Commission: 1987-1988.



JUVENILE LAW STUDY COMMISSION  
 STATE LEGISLATIVE BUILDING  
 RALEIGH, NORTH CAROLINA 27611

Judge Sherry Alloway, Chair

March 27, 1987

The Honorable J. Richard Conder  
 Chairman, Children and Youth Committee  
 North Carolina Senate  
 Room 624  
 Legislative Office Building  
 Raleigh, N.C. 27611

Dear Senator Conder:

At its meeting on March 23, 1987, the Juvenile Law Study Commission met and unanimously to oppose Senate Bill 151, which would require social services and law enforcement personnel to make certain abuse and neglect reports to the Department of Crime Control and Public Safety. The Commission's concerns about the bill include the following:

- (1) Neither the purpose of the reports nor the use that will be made of reported information is made clear.
- (2) If the reports are desired for statistic-keeping purposes, it is not clear why the bill requires that reports be made "immediately".
- (3) If there is a need to collect information about people who are suspected of committing crimes against children, (a) the requirement that "evidence" (in social services cases) and "charges" (in criminal cases) be reported is overbroad, and (b) such information could be collected better through the court system.
- (4) The state's collection and undefined use of the information the bill requires to be reported may risk violation of the due process rights of those who are the subjects of such reports.
- (5) The social services part of the bill overlaps with and duplicates functions of the Central Registry that is maintained by the Division of Social Services in the Department of Human Resources.
- (6) The bill's language "notwithstanding any law covering confidentiality" brushes aside critical statutory confidentiality requirements.

In addition, the Commission noted that even though the bill title refers to school personnel, the bill itself does not mention schools.

Thank you and other members of the Children and Youth Committee for your attention to the Commission's concerns.

Sincerely,

*Sherry Alloway*

Judge Sherry Alloway, Chairman  
 Juvenile Law Study Commission



JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH NORTH CAROLINA 27611

Judge Sherry Alloway, Chair

March 27, 1987

The Honorable Marie W. Colton  
North Carolina House of Representatives  
Room 636  
Legislative Office Building  
Raleigh, N.C. 27611

Dear Representative Colton:

At its meeting on March 23, 1987, the Juvenile Law Study Commission voted to endorse and express to you its support for House Bill 175. The Commission finds it to be a useful clarification of the Juvenile Code's definition of "carecaker".

Sincerely,

*Sherry Alloway*

Judge Sherry Alloway, Chairman  
Juvenile Law Study Commission

JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH NORTH CAROLINA 27611

Judge Sherry Alloway, Chair

March 27, 1987

The Honorable Aaron E. Fussell  
Chairman, Education Committee  
North Carolina House of Representatives  
Legislative Building  
Raleigh, N.C. 27611

Dear Representative Fussell:

At its meeting on March 23, 1987, the Juvenile Law Study Commission voted to oppose House Bill 29, which would raise the compulsory school attendance age in North Carolina to eighteen. The Commission's concerns about the bill include the following:

- (1) It would double the present school population.
- (2) It would have a major fiscal impact.
- (3) It would have considerable impact on court counselors.
- (4) It would cause court repeats.
- (5) There would be an inability to enforce the law.
- (6) The money the bill would require could be spent more effectively.
- (7) There are major difficulties in teaching students who do not want to be taught.

Thank you and other members of the Education Committee for your attention to the Commission's concerns.

Sincerely,

*Sherry Alloway*

Judge Sherry Alloway, Chairman  
Juvenile Law Study Commission





JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611

Judge Sherry Alloway, Chair

April 13, 1987

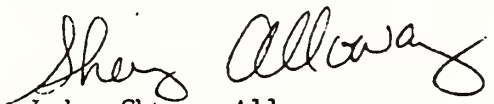
Mr. Alfred Boyles  
Director, Division of Youth Services  
705 Palmer Drive  
Raleigh, North Carolina 27603

Dear Mr. Boyles:

The Juvenile Law Study Commission has asked me as Chair, to communicate to you the Commission's recommendations that the Division of Youth Services review and update its training school admission criteria. Earlier, the 1987 Juvenile Law Study Commission Report To The General Assembly was mailed to you. The recommendations are included in the report and I have enclosed a copy (of the recommendations) for your convenience.

The consensus of the Commission was that the Division of Youth Services could better handle the review and update without the need for legislation to be drafted. If I or the Commission can assist you in any way, please let me know. My office number is (919) 334-5626 and my home number is (919) 274-4499.

Sincerely,

  
Judge Sherry Alloway  
Chair  
Juvenile Law Study Commission

JSA:rb

Enclosures

CC: Mr. David T. Flaherty, Secretary of Human Resources  
Members of the Juvenile Law Study Commission



JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611

Judge Sherry Alloway, Chair

April 13, 1987

Mr. David T. Flaherty  
Secretary of Human Resources  
325 North Salisbury Street  
Raleigh, North Carolina 27611

Dear Secretary Flaherty:

The Juvenile Law Study Commission has asked me as Chair, to communicate to you the Commission's recommendation that the Division of Youth Services review and update its training school admission criteria. I have enclosed a copy of the 1987 Juvenile Law Study Commission Report To The General Assembly. The report outlines (on pages 15-17) the Commission's proposal.

The consensus of the Commission was that the Division of Youth Services could better handle the review and update without the need for legislation to be drafted. If I or the Commission can assist you in any way, please let me know. My office number is (919) 334-5626 and my home number is (919) 274-4499.

Sincerely,

A handwritten signature in cursive script that reads "Sherry Alloway".

Judge Sherry Alloway  
Chair  
Juvenile Law Study Commission

JSA:rb

Enclosures

CC: Director, Division of Youth Services  
Members of the Juvenile Law Study Commission



JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611

Judge Sherry F. Alloway, Chair

April 28, 1987

Representative H. M. Michaux, Jr., Chairman  
House Committee on Courts and  
Administration of Justice  
2121 State Legislative Building  
Raleigh, North Carolina 27611

Re: Senate Bill 37  
Expedite Trials with Child Witness

Dear Representative Michaux:

I am writing as Chair of the Juvenile Law Study Commission to support Senate Bill 37. As you know, the Juvenile Law Study Commission was established by G.S. 7A-740 to study juvenile laws and make recommendations to the Governor and the General Assembly concerning proposed legislation affecting juveniles.

After adopting a Committee Substitute for Senate Bill 37, it passed the Senate on March 20. It has been referred to your House Committee on Courts and Administration of Justice. The Commission reviewed Senate Bill 37 at its meeting on April 13, and the Commission voted to support this bill.

Thank you for your attention to the recommendation of the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Sherry F. Alloway".

Judge Sherry F. Alloway, Chair  
Juvenile Law Study Commission



JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611

Judge Sherry F. Alloway, Chair

April 28, 1987

Senator Robert Davis Warren, Chairman  
Senate Committee on Education  
Room 2009, State Legislative Building  
Raleigh, North Carolina 27611

Re: Senate Bill 81  
Dropouts Ineligible for Drivers Licenses and  
Senate Bill 188  
No Pass/No Drive

Dear Senator Warren:

I am writing you as Chair of the Juvenile Law Study Commission to oppose the two bills noted above. As you know, the Juvenile Law Study Commission was established by G.S. 7A-740 to study juvenile laws and make recommendations to the Governor and the General Assembly concerning proposed legislation affecting juveniles.

Senate Bill 81: The Commission reviewed Senate Bill 81 at its meeting on April 13, and the Commission voted to oppose this bill. The Commission felt that the approach of Senate Bill 81 to deny a driver's license to any person under age eighteen who is a high school dropout is not practical. The Commission felt if a student drops out of school, then he/she needs to be able to drive a car to seek employment. Employment for such a person is a critical issue.

Senate Bill 188: The Commission also voted to oppose Senate Bill 188 for the same reasons.

Thank you for your attention to the recommendations of the Commission.

Sincerely,

*Sherry F. Alloway*

Judge Sherry F. Alloway, Chair  
Juvenile Law Study Commission



JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611

Judge Sherry F. Alloway, Chair

April 28, 1987

Senator Robert Swain, Chairman  
Senate Committee on Judiciary III  
2011 State Legislative Building  
Raleigh, N.C. 27611

Re: Senate Bill 99  
Defendant Pay/Treatment of Child,  
which is almost identical to House Bill 397,  
Defendant Pay/Treatment of Child, pending in  
Judiciary IV in the House

Dear Senator Swain:

I am writing you as Chair of the Juvenile Law Study Commission to oppose Senate Bill 99. As you know, the Juvenile Law Study Commission was established by G.S. 7A-740 to study juvenile laws and make recommendations to the Governor and the General Assembly concerning proposed legislation affecting juveniles.

Senate Bill 99: The Commission reviewed Senate Bill 99 at its meeting on April 13. The Commission felt that this legislation is not needed because the trial judge already has the discretionary authority to require the defendant to pay for treatment of the victim as part of the sentence in child abuse cases.

Thank you for your attention to the recommendation of the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Sherry F. Alloway".

Judge Sherry F. Alloway, Chair  
Juvenile Law Study Commission





JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611

Judge Sherry F. Alloway, Chair

April 28, 1987

Representative Ruth Easterling, Chair  
House Committee on Children and Youth  
2215 State Legislative Building  
Raleigh, North Carolina 27611

Re: House Bill 351  
Juvenile Information Sharing and  
House Bill 352  
Juvenile Records for Research

Dear Representative Easterling:

I am writing you as Chair of the Juvenile Law Study Commission to support the two bills noted above. As you know, the Juvenile Law Study Commission was established by G.S. 7A-740 to study juvenile laws and make recommendations to the Governor and the General Assembly concerning proposed legislation affecting juveniles.

House Bill 351: The Commission reviewed House Bill 351 at its meeting on April 13 and voted to support this bill. The Commission recommends that the local mental health centers and other local agencies of the Division of Mental Health, Mental Retardation and Substance Abuse Services should be included in this bill to authorize them to share information also.

House Bill 352: The Commission reviewed House Bill 352 at its meeting on April 13 and voted to support this bill. The Commission favors the idea of the records of the Division of Youth Services being available for research, provided there is appropriate protection of the confidentiality of these records.

Thank you for your attention to the recommendations of the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Sherry F. Alloway".

Judge Sherry F. Alloway, Chair  
Juvenile Law Study Commission



JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611

Judge Sherry F. Alloway, Chair

April 28, 1987

Representative Dennis A. Wicker, Chairman  
House Committee on Judiciary IV  
2213 State Legislative Building  
Raleigh, North Carolina 27611

Re: House Bill 397  
Defendant Pay/Treatment of Child,  
which is almost identical to  
Senate Bill 99,  
Defendant Pay/Treatment of Child,  
pending in Judiciary III in the Senate

Dear Representative Wicker:

I am writing you as Chair of the Juvenile Law Study Commission to oppose House Bill 397. As you know, the Juvenile Law Study Commission was established by G.S. 7A-740 to study juvenile laws and make recommendations to the Governor and the General Assembly concerning proposed legislation affecting juveniles.

House Bill 397: The Commission reviewed House Bill 397 at its meeting on April 13 and voted to oppose it. The Commission felt that this legislation is not needed because the trial judge already has the discretionary authority to require the defendant to pay for treatment of the victim as part of the sentence in child abuse cases.

Thank you for your attention to the recommendation of the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Sherry F. Alloway".

Judge Sherry F. Alloway, Chair  
Juvenile Law Study Commission



**JUVENILE LAW STUDY COMMISSION**  
**STATE LEGISLATIVE BUILDING**  
**RALEIGH, NORTH CAROLINA 27611**

Judge Sherry F. Alloway, Chair

May 18, 1987

Senator Richard Conder, Chairman  
 Senate Committee on Children and Youth  
 Room 624, Legislative Office Building  
 Raleigh, North Carolina 27611

Re: Senate Bill 367  
Juvenile Code Revision

Dear Senator Condor:

I am writing you as Chair of the Juvenile Law Study Commission to support the philosophy and intent of Senate Bill 367. It is our understanding that this bill is being studied by the Senate Committee on Children and Youth so your committee may make changes in the bill. In general, the Commission supports the concept of permanency planning for children in foster care under the supervision of county departments of social services. Further, the Commission also supports the idea that the state law should be in conformity with federal law so that North Carolina will be eligible for certain federal funds to pay for the cost of foster care.

The Commission had a number of questions and concerns about the bill, as follows:

- Which children who have been removed from their homes are covered, i.e., is the bill limited to children in the custody of county departments of social services who are placed in foster care as a result of abuse, neglect, or dependancy, or does it also cover children removed from their home pursuant to delinquency or undisciplined behavior? Does it cover children who have been adjudicated delinquent or undisciplined and placed in group homes?
- What is the extent of the reasonable effort required under the bill to avoid unnecessary removal of a child from his home or to provide reunification services to facilitate a child's return to his home? Does the reasonable effort apply to delinquent and undisciplined children?
- If Senate Bill 367 requires the Department of Social Services to make efforts in all cases where a child is removed, including delinquent and undisciplined, what consideration is given to the impact on the county departments of social services and the increase in cost?

- The Commission is concerned about the requirement that a petition for termination of parental rights must be filed in specified cases. The Commission believes that the passage of Senate Bill 367 will greatly increase the number of contested cases of termination of parental rights. Is there any consideration being given to increasing the number of judges and other personnel?
- The Commission was also concerned that Senate Bill 367 did not allow for the removal of other children in the homes who had not yet been abused (physically or sexually), but who might be subject to such abuse if left in the home.

Thank you for your attention to the recommendation and ideas of the Commission.

Sincerely,

A handwritten signature in cursive script, reading "Sherry F. Alloway". The signature is written in dark ink and is positioned above the typed name and title.

Judge Sherry F. Alloway, Chair  
Juvenile Law Study Commission



JUVENILE LAW STUDY COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH, NORTH CAROLINA 27611

Judge Sherry F. Alloway, Chair

June 8, 1987

Senator Richard Conder, Chairman  
Senate Committee on Children and Youth  
Room 624, Legislative Office Building  
Raleigh, North Carolina 27611

Re: House Bill 1023  
Psychologist report child abuse

Dear Senator Conder:

As Chair of the Juvenile Law Study Commission, I am writing to express support for House Bill 1023--"An Act Providing That the Psychologist-Client Privilege Is Waived for Child Abuse Reports to the Same Extent as the Physician-Patient and Husband-Wife Privileges"--which we understand has been referred to the Senate Committee on Children and Youth.

Thank you for your consideration of the Commission's support for this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sherry F. Alloway".

Sherry F. Alloway  
District Court Judge  
Chair, Juvenile Law Study Commission



June 3, 1988

Representative Sidney A. Locks, Chairman  
Appropriations-Human Resources  
Room 603, Legislative Office Building  
Raleigh, NC 27611

Dear Representative Locks:

I am writing to recommend that House Bill 930 (Short Title: Juvenile Transportation Program) which is pending in the Appropriations Committee in the House of Representatives be amended in Committee to clarify the bill and increase the appropriation to the Division of Youth Services as recommended by the Juvenile Law Study Commission. I enclose a copy of House Bill 930 as introduced in the House, and a copy as modified and recommended by the Juvenile Law Study Commission. Representative Anne Barnes has requested a new fiscal note which more accurately reflects the cost of this bill.

As you may know, the Juvenile Law Study Commission was established by G.S. 7A-740 to study juvenile law and recommend proposed legislation to the General Assembly and the Governor. The Commission met on May 6 in Greensboro, and recommended that House Bill 930 be enacted by the General Assembly with the changes contained in the modified House Bill 930 which is enclosed herein.

We are recommending that this legislation be enacted for the following reasons: G.S. 7A-652(d) provides that the chief court counselor in each judicial district is responsible for transporting juvenile delinquents who have been committed to training school (to the residential facility designated by the Division of Youth Services). It further requires that such a juvenile be accompanied to training school by a person of the same sex. This means that court counselors are regularly involved in transporting juveniles to training school, and sometimes the law requires two court counselors to make the trip if the child committed is a different sex from the responsible court counselor.

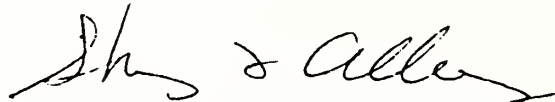
Representative Sidney A. Locks  
June 3, 1988  
Page Two

The Commission is concerned about the obvious safety issues when you consider the following trends in commitments to training school. A court counselor is sometimes responsible for transporting a juvenile alone. The juveniles committed to training school now are the more aggressive or dangerous juveniles who are unable to make it in the available community-level resources. Thus, the counselor must be a safe driver, provide security so that the child can't jump out of the car, and also interact with the juvenile as a court counselor. Thus, a considerable amount of time for pure transportation is required from a court counselor who is skilled in counseling when a law enforcement officer experienced in security (and often with cars equipped for transporting prisoners) could do the job with more safety.

It is difficult to calculate the exact cost of transporting juveniles by court counselors because some areas now have transportation services provided by state funds or county funds, or some combination of state/county funds. The Division of Youth Services is preparing information that explains the proposed juvenile transportation program in more detail, including the cost of the proposed program.

We shall appreciate your support of this legislation.

Very sincerely,

A handwritten signature in dark ink, appearing to read "Sherry F. Alloway". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sherry F. Alloway, Chair  
Juvenile Law Study Commission and  
District Judge

Enclosures



JUVENILE LAW STUDY COMMISSION

P. O. Box 925  
RALEIGH, NORTH CAROLINA 27602

JUDGE SHERRY F. ALLOWAY, CHAIR

June 14, 1988

Senator William Martin  
N. C. General Assembly  
Legislative Building  
Raleigh, N. C. 27611


Re: House Bill 1068  
Consent for Minor's Abortion

Dear Senator Martin:

Enclosed please find a copy of the letter sent to Senator Barnes expressing the Juvenile Law Study Commission's opposition to House Bill 1068.

Thank you for your consideration.

Sincerely,

  
Sherry F. Alloway  
District Court Judge  
Chairman, Juvenile Law  
Study Commission

SFA:sg

Enclosure







